United Nations

Report of the Conference on Disarmament

General Assembly
Official Records • Forty-seventh Session
Supplement No. 27 (A/47/27)

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NOTE

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I. INTRODUCTION

1. The Conference on Disarmament submits to the forty-seventh session of the United Nations General Assembly its annual report on its 1992 session, together with the pertinent documents and records. The work of the Conference took on an exceptional character during 1992, as intensive efforts were made to conclude, as a priority task, the draft Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction. Accordingly, negotiations in the Conference concentrated on the activities of the Ad Hoc Committee on Chemical Weapons. In view of those efforts, particularly in the final phase of the negotiations on the draft convention, other subsidiary bodies reduced their own workload. The Conference, however, was in agreement that the diminished work on the other items on its agenda during this year should not constitute a precedent for its future work.

II. ORGANIZATION OF WORK OF THE CONFERENCE

A. 1992 Session of the Conference

2. The Conference was in session from 21 January to 27 March, 11 May to 26 June and 20 July to 3 September 1992. During this period, the Conference held 30 formal plenary meetings, at which member States as well as non-member States invited to participate in the discussions set forth their views and recommendations on the various questions before the Conference.

3. The Conference also held 16 informal meetings on its agenda, programme of work, organization and procedures, as well as on items of its agenda and other matters.

4. In accordance with rule 9 of the rules of procedure, the following member States assumed successively the Presidency of the Conference: Yugoslavia, Zaire, Algeria, Argentina, Australia and Belgium also for the recess until the 1993 session of the Conference.

B. Participants in the Work of the Conference

5. Representatives of the following member States participated in the work of the Conference: Algeria; Argentina; Australia; Belgium; Brazil; Bulgaria; Canada; China; Cuba; Czech and Slovak Federal Republic; Egypt; Ethiopia; France; Germany; Hungary; India; Indonesia; Islamic Republic of Iran; Italy; Japan; Kenya; Mexico; Mongolia; Morocco; Myanmar; Netherlands; Nigeria; Pakistan; Peru; Poland; Romania; Russian Federation; Sri Lanka; Sweden; United Kingdom of Great Britain and Northern Ireland; United States of America; Venezuela; Yugoslavia and Zaire.

C. Agenda and Programme of Work for the 1992 Session

6. At the 606th plenary meeting on 21 January 1992, the President submitted a proposal on the provisional agenda and programme of work for the 1992 session in conformity with rule 29 of the rules of procedure. At the same

plenary meeting, the Conference adopted the proposal of the President (CD/PV.606). The text of the agenda and programme of work (CD/1119) reads as follows:

"The Conference on Disarmament, as the multilateral negotiating forum, shall promote the attainment of general and complete disarmament under effective international control.

"The Conference, taking into account, inter alia, the relevant provisions of the documents of the first and second special sessions of the General Assembly devoted to disarmament, will deal with the cessation of the arms race and disarmament and other relevant measures in the following areas:

I. Nuclear weapons in all aspects;

II. Chemical weapons;

III. Other weapons of mass destruction;

IV. Conventional weapons;

V. Reduction of military budgets;

VI. Reduction of armed forces;

VII. Disarmament and development;

VIII. Disarmament and international security;

IX. Collateral measures, confidence-building measures; effective verification methods in relation to appropriate disarmament measures, acceptable to all parties concerned;

X. Comprehensive programme of disarmament leading to general and complete disarmament under effective international control.

"Within the above framework, the Conference on Disarmament adopts the following agenda for 1992 which includes items that, in conformity with the provisions of section VIII of its rules of procedure, would be considered by it:*

1. Nuclear-test ban.

2. Cessation of the nuclear-arms race and nuclear disarmament.

3. Prevention of nuclear war, including all related matters.

4. Chemical weapons.

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* For the addition of the item entitled "Transparency in armaments", see paragraph 7.

5. Prevention of an arms race in outer space.

6. Effective international arrangements to assure non-nuclear-weapons States against the use or threat of use of nuclear weapons.

7. New types of weapons of mass destruction and new systems of such weapons; radiological weapons.

8. Comprehensive programme of disarmament.

9. Consideration and adoption of the annual report and any other report, as appropriate, to the General Assembly of the United Nations.

Programme of Work

"In compliance with rule 28 of its rules of procedure, the Conference on Disarmament also adopts the following programme of work for its 1992 session:

21-31 January	Adoption of the agenda, establishment of subsidiary bodies and their mandates, decision on participation of non-member States, and statements on all items;
3-14 February	Statements on all items, and informal presidential consultations on outstanding matters;
17 February - 27 March) 11 May - 26 June) 20 July - 14 August)	Statements on all items, and supervision of work in subsidiary bodies;
17 August - 3 September	Final statements and consideration and adoption of Report.

"In accordance with rule 9 of the rules of procedure, the following Member States shall assume the Presidency of the Conference during the 1992 session as indicated below:

(a) Yugoslavia from 21 January to 16 February;

(b) Zaire from 17 February to 15 March;

(c) Algeria from 16 March to 24 May, including the recess between the first and the second part of the annual session;

(d) Argentina from 25 May to 21 June;

(e) Australia from 22 June to 9 August, including the recess between the second and third part of the annual session; and

(f) Belgium from 10 August to 3 September and the recess until the 1993 session of the Conference.

"The Conference shall hold two plenary meetings a week on Tuesdays and Thursdays at 10 a.m. during the following periods: 21-31 January, 23-27 March, 22-26 June and 10-21 August.* For the remaining 18 weeks of the annual session, only one plenary shall be scheduled every week, preferably on Thursdays. Flexible provisions shall, however, be made to allow for a second plenary.

"The Conference will continue consideration of its improved and effective functioning and will report to the General Assembly of the United Nations on that subject.

"The Conference will continue its consultations in pursuance of paragraphs 12 and 13 of its last annual report (CD/1111) with a view to taking a positive decision at its 1992 annual session with regard to expansion of its membership by not more than four States and the need to maintain balance in the membership of the Conference and will inform accordingly the forty-seventh session of the General Assembly of the United Nations.

"Meetings of the subsidiary bodies will be convened after consultations between the President of the Conference and the Chairmen of the subsidiary bodies, according to the circumstances and needs of those bodies.

"The Ad Hoc Group of Scientific Experts to Consider International Co-operative Measures to Detect and Identify Seismic Events will meet from 2 to 13 March 1992.

"In adopting its programme of work, the Conference has kept in mind the provisions of rules 30 and 31 of its rules of procedure."

7. At its 622nd plenary meeting on 26 May 1992, the Conference decided to add to its 1992 agenda the item entitled "Transparency in armaments" as agenda item 9 (CD/1119/Add.1 and CD/1150).

8. At its 606th plenary meeting on 21 January 1992, the Conference decided to re-establish the Ad Hoc Committees on Chemical Weapons (CD/1120), on Effective International Arrangements to Assure Non-Nuclear Weapon States Against the Use or Threat of Use of Nuclear Weapons (CD/1121) and on Radiological Weapons (CD/1122). At its 612th plenary meeting on 13 February 1992, the Conference decided to re-establish the Ad Hoc Committee on the Prevention of an Arms Race in Outer Space (CD/1125).

D. Attendance and Participation of States not members of the Conference

9. In conformity with rule 32 of the rules of procedure, the States non-members of the Conference listed under the following paragraph attended its plenary meetings.

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* At its 625th plenary meeting, the Conference decided to cancel the plenary meeting scheduled for Tuesday, 23 June.

10. The Conference received and considered requests for participation in its work from States not members of the Conference. In accordance with the rules of procedure and its decision taken at its 1990 session on its improved and effective functioning (CD/1036), the Conference invited the following non-member States to participate in the work of the Conference: Austria, Bolivia, Cameroon, Chile, Colombia, Costa Rica, Democratic People's Republic of Korea, Denmark, Ecuador, Finland, Ghana, Greece, Holy See, Iraq, Ireland, Israel, Jordan, Kuwait, Libyan Arab Jamahiriya, Malaysia, Malta, Mauritius, New Zealand, Norway, Oman, Panama, Philippines, Portugal, Qatar, Republic of Korea, Senegal, Singapore, South Africa, Spain, Switzerland, Syrian Arab Republic, Thailand, Tunisia, Turkey, Ukraine, United Arab Emirates, United Republic of Tanzania, Uruguay, Viet Nam and Zimbabwe. The Conference noted the specific requests from some of these non-members.

E. Expansion of the membership of the Conference

11. The urgency attached to the question of the expansion of its membership is duly recognized by the Conference.

12. Requests for membership had been received, since 1982, from the following non-members, in chronological order: Norway, Finland, Austria, Turkey, Senegal, Bangladesh, Spain, Viet Nam, Ireland, Tunisia, Ecuador, Cameroon, Greece, Zimbabwe, New Zealand, Chile, Switzerland, Republic of Korea, Belarus and Ukraine.

13. During its 1992 session, and under the circumstances mentioned in paragraph 1, the Presidents of the Conference conducted continuing consultations with the members, in accordance with established practice, on the selection of additional members. Members of the Conference also engaged in consultations on this important question. The Western Group recalled that it supported the admission of Norway for membership (CD/PV.351) and considered that the whole question of expansion of membership needed a thorough review. The Group of 21 noted that it would select its candidates when there is agreement on concrete ways and means for implementing the above-mentioned decision. The view was also expressed that the expansion of the membership of the Conference should be examined with caution, as a new balance was developing in international relations. Another view was expressed that this issue, after more than 10 years of deliberations, required urgent decision.

14. The Conference will intensify its consultations on the expansion of its membership at the opening of its 1993 session with a view to conducting a comprehensive review of the existing situation and taking a positive decision at its next annual session. The Conference will inform the forty-eighth session of the General Assembly of the United Nations of such a comprehensive review as well as of any agreement resulting from it.

F. Improved and Effective Functioning of the Conference

15. By paragraph 17 of its last report to the General Assembly of the United Nations (CD/1111), the Conference decided to continue consideration of its improved and effective functioning at the current annual session, in the same format and under the same Chairmanship as in the previous two years.

16. Four informal open-ended consultations under the Chairmanship of Ambassador Kamal of Pakistan were held during the third part of the annual session. It was agreed that the consultations during 1992 could be attended by non-member States participating in the work of the Conference and several non-members did so.

17. At its 634th plenary meeting on 27 August 1992, the Chairman submitted his report (CD/WP.435) to the Conference on the open-ended consultations. At the same plenary meeting, the Conference took note with appreciation of that report.

18. As a result of those open-ended consultations, general agreement emerged on ways to improve and make more effective the functioning of the Conference in the following areas:

(a) Report writing: It was generally agreed that the following three desirable possibilities should be borne in mind in drafting future reports: (i) the possibility of shortening the annual report; (ii) the possibility of limiting the time spent on the actual negotiation of the text of the report; and (iii) the possibility of referring to individual countries by name or on the basis of their group affiliation. Caution needed to be exercised in ensuring that the objective of brevity did not impact adversely on matters of substance.

(b) Reduction of plenary meetings: There was general agreement that participants would be encouraged to inscribe themselves on the speakers' list at least 24 hours in advance, thus enabling the Secretariat to cancel the Tuesday plenaries if no speakers had been inscribed by that deadline. This possibility of cancellation of Tuesday plenaries would not affect either the regularity of the Thursday plenaries, even if there were no speakers, or the possibility of organizing a limited number of extra plenary meetings, as and when required by the Conference. It was also agreed that participants would be encouraged to inform the Secretariat in advance about the topics that they wished to address in their interventions.

(c) Organization of work of ad hoc committees: There was general agreement that time periods could be staggered under a fair division of the available weeks between different ad hoc committees, but giving each ad hoc committee the due possibility of re-examining its allotted subject of responsibility again in the third part of the annual session so as to take stock of new developments during the year before it finalized its report. It was recognized that some subjects were of such importance that their consideration in subsidiary bodies would in any case have to be spread over the whole of the annual session.

(d) Tenure of presidency: There was general agreement that, while no change should be made in the current four-week tenure (spanning the inter-sessional gaps whenever they occurred), it would be desirable for the President to associate, wherever possible, the outgoing President in matters which were being carried over from the previous presidency, as well as the incoming President whose presence during the Wednesday presidential consultations would enable the latter to step more smoothly into the presidential chair.

(e) Duplication in documentation: There was general agreement that greater care would be exercised in avoiding unnecessary duplication. If necessary, the implications of rule 45 of the rules of procedure would be re-examined next year.

(f) Agenda and membership: There was general agreement that, with the end of the intensity of work on the chemical weapons convention, attention should be focused on these two important areas. In order to identify possible future courses of action, the President of the Conference would be entrusted with the task of conducting consultations during the inter-sessional period after the end of the 1992 annual session of the Conference, and to report back to the Conference at the beginning of the 1993 annual session. The President would be assisted in his consultations by the incoming President and the Secretary-General.

19. The Conference on Disarmament will continue consideration of its improved and effective functioning at its next annual session, in the same format and under the same Chairmanship.

G. Communications from Non-Governmental Organizations

20. In accordance with rule 42 of the rules of procedure, lists of all communications from non-governmental organizations and persons were circulated to the Conference (documents CD/NGC.24 and CD/NGC.25).

III. SUBSTANTIVE WORK OF THE CONFERENCE DURING ITS 1992 SESSION

21. The substantive work of the Conference during its 1992 session was based on its agenda and programme of work. The list of documents issued by the Conference, as well as the texts of those documents, are included as appendix II to the report. An index of the verbatim records by country and subject, listing the statements made by delegations during 1992, and the verbatim records of the meetings of the Conference, are attached as appendix III to the report.

22. The Conference had before it a letter dated 15 January 1992 from the Secretary-General of the United Nations (CD/1115) transmitting all the resolutions on disarmament adopted by the General Assembly at its forty-sixth session in 1991, including those entrusting specific responsibilities to the Conference on Disarmament:

46/29	"Comprehensive nuclear-test-ban treaty"
46/32	"Conclusion of effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons"
46/33	"Prevention of an arms race in outer space"
46/35 C	"Chemical and bacteriological (biological) weapons"
46/36 D	"Prohibition of the production of fissionable material for weapons purposes"

46/36 E "Prohibition of the development, production, stockpiling and use of radiological weapons"

46/36 I "Regional disarmament"

46/36 K "Prohibition of the dumping of radioactive wastes"

46/36 L "Transparency in armaments"

46/37 D "Convention on the Prohibition of the Use of Nuclear Weapons"

46/38 B "Comprehensive programme of disarmament"

46/38 C "Report of the Conference on Disarmament".

23. At the 606th plenary meeting of the Conference on 21 January 1992, the Personal Representative of the United Nations Secretary-General and Secretary-General of the Conference conveyed to the Conference a message from the Secretary-General of the United Nations at the opening of the 1992 session (CD/PV.606).

24. In addition to documents separately listed under specific items, the Conference received the following:

(a) Document CD/1114, dated 9 January 1992, submitted by the delegations of Bolivia, Colombia, Ecuador, Peru and Venezuela, entitled "Cartagena Declaration on Renunciation of Weapons of Mass Destruction, signed at Cartagena de Indias, Colombia, on 4 December 1991 by the Five Heads of State of the Member Countries of the Andean Group".

(b) Document CD/1117, dated 22 January 1992, submitted by the delegations of Argentina and Brazil, entitled "Agreement between the Republic of Argentina and the Federative Republic of Brazil for the Exclusively Peaceful Use of Nuclear Energy".

(c) Document CD/1118, dated 22 January 1992, submitted by the delegations of Argentina and Brazil, entitled "Agreement between the Republic of Argentina, the Federative Republic of Brazil, the Brazilian-Argentine Agency for Accounting and Control of Nuclear Materials and the International Atomic Energy Agency for the Application of Safeguards".

(d) Document CD/1123, dated 31 January 1992, submitted by the delegation of the Russian Federation, entitled "Statement of 29 January 1992 by B.N. Yeltsin, President of the Russian Federation, on Russia's Policy in the Field of Arms Limitation and Reduction".

(e) Document CD/1124, dated 11 February 1992, submitted by the delegation of Peru, entitled "Draft Agreement on Measures to Promote Mutual Confidence and Security between Peru and Ecuador".

(f) Document CD/1126, dated 17 February 1992, submitted by the delegations of Argentina, Brazil and Chile, entitled "Joint Declaration on the Complete Prohibition of Chemical and Biological Weapons, the 'Mendoza Agreement'".

(g) Document CD/1131, dated 20 February 1992, submitted by the delegations of Argentina and Brazil, entitled "Joint Declaration of the President of the Argentine Republic, Carlos Menem, and the President of the Federative Republic of Brazil, Fernando Collor, on the Occasion of the 25th Anniversary of the Signing of the Treaty of Tlatelolco".

(h) Document CD/1139, dated 28 February 1992, submitted by the delegation of Ecuador, entitled "Draft Agreement on Measures of Confidence and Cooperation between Ecuador and Peru".

(i) Document CD/1147, dated 25 March 1992, submitted by the delegations of the Republic of Korea and the Democratic People's Republic of Korea, transmitting the text of the Agreement on Reconciliation, Non-Aggression and Exchanges and Cooperation between the South and the North, as well as the text of the Joint Declaration of the Denuclearization of the Korean Peninsula.

(j) Document CD/1158, dated 22 July 1992, submitted by the delegation of the United States of America, transmitting a Statement by President Bush on the Non-Proliferation Initiative, announced by him on 13 July 1992, as well as two related fact sheets issued by the White House.

(k) Document CD/1162, dated 12 August 1992, submitted by the delegation of the United States of America, transmitting documents relating to Arms Control and Disarmament Issues agreed on during the Summit Meeting held by Presidents Bush and Yeltsin in Washington, D.C. in June 1992.

(l) Document CD/1166, dated 1 September 1992, submitted by the delegation of the Russian Federation, transmitting documents relating to Arms Control and Disarmament Issues agreed on during the Summit Meeting between the President of the Russian Federation, B.N. Yeltsin, and the President of the United States of America, G. Bush, in Washington in June 1992.

(m) Document CD/1171, dated 31 August 1992, submitted by the delegation of the People's Republic of China, transmitting the text of a Speech made on 17 August 1992 by Mr. Qian Qichen, State Councillor and Foreign Minister of China, at the United Nations Conference on Disarmament and Security Issues in the Asia-Pacific Region.

(n) Document CD/1172, dated 3 September 1992, submitted by the delegations of Argentina, Brazil and Chile, transmitting a Commentary on Proposed Amendments to the Treaty of Tlatelolco.

A. Nuclear Test Ban

25. During the first and second parts of the annual session, the Conference had before it the sixth report (CD/1144) and the progress report (CD/1145) on the thirty-third session of the Ad Hoc Group of Scientific Experts to Consider International Co-operative Measures to Detect and Identify Seismic Events.

The Ad Hoc Group met from 2 to 13 March, under the Chairmanship of Dr. Ola Dahlman of Sweden. At its 621st plenary meeting on 21 May 1992, the Conference took note of the sixth report of the Ad Hoc Group and adopted the recommendations contained in paragraph 11 of its progress report.

26. During the third part of its annual session, the Conference had before it the progress report of the Ad Hoc Group on its thirty-fourth session (CD/1163), which had taken place from 27 July to 7 August, under the continued Chairmanship of Dr. Ola Dahlman of Sweden. At its 632nd plenary meeting on 18 August 1992, the Conference adopted the recommendation contained in paragraph 15 of that report, thereby approving the dates of the next session of the Ad Hoc Group from 15 to 26 February 1993. Furthermore, as suggested by the Ad Hoc Group in paragraph 14 of the report, the President, with the agreement of the Conference, extended an invitation to the IAEA to participate in the work of the Ad Hoc Group at its next session.

27. Throughout the session, a number of delegations commented in plenary meetings on the work of the Ad Hoc Group, as contained in the official records of the Conference.

28. The following documents were presented to the Conference under the agenda item:

(a) Document CD/1151, dated 1 June 1992, submitted by the delegation of Norway, transmitting a Summary of a Study on a Comprehensive Test-Ban Treaty; and

(b) Document CD/1167, dated 14 August 1992, submitted by the delegation of Norway, transmitting a report of the Expert Study on Questions related to a Comprehensive Test Ban Treaty.

29. At the start of the 1992 session, the President of the Conference carried out consultations on an appropriate organizational arrangement for agenda item 1, entitled "Nuclear Test Ban".

30. At the Conference's 612th plenary meeting on 13 February 1992, the President of the Conference appointed Ambassador Prakash Shah of India as Special Co-ordinator to seek agreement on such an organizational arrangement for agenda item 1.

31. At the Conference's 622nd plenary meeting on 26 May 1992, the nuclear-weapon State which had not participated in the previous work of the Ad Hoc Committee on a Nuclear Test Ban announced its decision to join the Ad Hoc Committee when it is re-established.

32. At the Conference's 631st plenary meeting on 13 August 1992, the Special Co-ordinator reported that he had carried out active and intensive consultations with delegations throughout the three parts of the annual session of the Conference this year, both bilaterally and through open-ended meetings, to ensure that there would be agreement among all delegations to re-establish the Ad Hoc Committee with a mandate acceptable to all. A series of proposals on a draft mandate for the Ad Hoc Committee's re-establishment had been put forward and considered, along with a proposal for a programme of

work for the 1992 session, which for some delegations, was an important component of the package. The Special Co-ordinator reported that throughout the consultations, he had found general agreement among all delegations to re-establish the Ad Hoc Committee during the 1992 session and to start its work quickly. The growing importance of agenda item 1 was recognized by all delegations. An overwhelming majority of delegations had expressed their willingness to give a mandate to the Ad Hoc Committee to continue, as a step towards achieving a nuclear test ban treaty, substantive work on specific and interrelated test ban issues. A growing number of delegations had felt that the Conference must immediately begin serious and sustained consideration of agenda item 1, particularly in the light of the conclusion of negotiations on a chemical weapons convention. While substantial progress had been made on improving the previous mandate, no final agreement had been possible before the end of the 1992 session. The Special Co-ordinator expressed his hope that the results achieved in 1992 would not be lost sight of when efforts were continued next year to re-establish the Ad Hoc Committee at the beginning of its 1993 session. In view of the overwhelming interest in this item among the members of the Conference on Disarmament, he recommended that the Conference re-establish the Ad Hoc Committee at the beginning of the 1993 session and make urgent efforts towards a negotiating mandate for the Ad Hoc Committee.

33. Many views on the substance of the issue of a nuclear test ban, as well as on organizational issues, were expressed in the plenary meetings of the Conference throughout the annual session and are contained in the following official records of the Conference: (CD/PV.606, 609, 611 to 615, 618 to 635).

34. The Conference agreed to intensify its consultations with a view to the re-establishment of the Ad Hoc Committee on a Nuclear Test Ban at the beginning of the 1993 session.

B. Cessation of the Nuclear Arms Race and Nuclear Disarmament

35. At its 612th plenary meeting on 13 February 1992, the Conference decided that informal meetings be held during its 1992 session on the substance of the agenda item, and that the discussions at those informal meetings be duly reflected in the annual report of the Conference to the General Assembly of the United Nations. Four informal meetings devoted to the agenda item were held between 12 March and 23 July 1992.

36. At the time of the adoption of that decision, the President of the Conference stated the following (CD/PV.612):

> "Under the rules of procedure, the President of the Conference has the responsibility, in accordance with the normal duties of any presiding officer, to ensure that discussions at plenary or informal meetings are conducted in an orderly way. Accordingly, I wish to inform you that I have myself taken the initiative of preparing a list of topics for the purpose of facilitating a structured discussion at informal meetings on the substance of agenda items 2 and 3. That list is my own and therefore does not bind any delegation. Furthermore, it is understood that members wishing to do so may raise any subject relevant to the agenda items, as is the normal practice of the Conference."

37. The list of topics read out by the President was as follows:

"Implementation of paragraph 50 of the Final Document of SSOD-I in the light of the trends in international relations

Evaluation of the dynamics of the nuclear arms race in the light of recent international developments

Halting and reversing the qualitative aspects of the nuclear arms race, and related matters

Existing international instruments concerning the cessation of the nuclear arms race and nuclear disarmament: the need for a global, universal, comprehensive and non-discriminatory non-proliferation régime in order to achieve the goal of complete nuclear disarmament

The interrelation between bilateral and multilateral consideration of the cessation of the nuclear arms race and nuclear disarmament; participation in negotiations for the cessation of the nuclear arms race and nuclear disarmament; the need for the participation of all nuclear-weapon States in nuclear disarmament; role of the Conference on Disarmament

Security concepts relating to nuclear weapons in view of recent developments and in the light of the global consequences of existing and envisaged disarmament and arms limitation agreements

The role of nuclear deterrence in keeping the peace for 40 years: the need to proceed carefully and gradually in reducing reliance on nuclear deterrence

The relevance of doctrines of nuclear deterrence in the present-day context

Principles governing nuclear disarmament

Proposals on stages and measures of nuclear disarmament

Cessation of the production of fissionable material for weapons purposes, and measures against the reuse for weapons purposes of fissionable material released by disarmament steps

Naval nuclear armaments and disarmament

A zone free of weapons of mass destruction in the Middle East

Collateral measures with the aim of consolidating and continuing the ongoing process of nuclear disarmament:

> Measures to prevent the proliferation of nuclear weapons technology, to deter efforts of threshold and emerging nuclear States to acquire nuclear weapons

Non-proliferation of missiles and other means of delivery of nuclear weapons, as well as their technology

Confidence-building measures promoting nuclear disarmament

Regional aspects of security: how to prevent competition for nuclear arms or other weapons of mass destruction

A global and multilateral verification agency under United Nations auspices

Verification in relation to the purposes, scope and nature of agreements

Existing proposals."

38. The following documents were submitted to the Conference under the agenda item during the 1992 session:

(a) Document CD/1134, dated 24 February 1992, submitted by the delegation of Chile, entitled "Statement issued by the Acting Minister for Foreign Affairs of Chile concerning International Disarmament"; and

(b) Document CD/1156, dated 23 June 1992, submitted by the delegation of the United Kingdom of Great Britain and Northern Ireland, transmitting a statement made by Mr. Malcolm Rifkind MP, Secretary of State for Defence, in answer to a Parliamentary Question in the House of Commons on 15 June 1992, concerning the ending of the United Kingdom's maritime tactical nuclear weapons capability.

39. Various issues relating to the cessation of the nuclear arms race and nuclear disarmament were addressed by delegations at plenary meetings of the Conference. The statements, which contributed to further explanation of the positions of delegations, including individual nuclear-weapon States, as reflected below, appear in the verbatim records of the Conference on Disarmament. Furthermore, various aspects of this item were discussed at the informal meetings.

40. The Group of 21 joined the consensus to discuss this item in the informal meetings.

41. Nineteen members of the Group of 21 placed on record their wish that the Conference on Disarmament establish an ad hoc committee on this agenda item with an adequate mandate at the beginning of its 1992 session in order to allow a structured and practical analysis of how the Conference could best contribute to progress on this urgent matter. They pointed out that Resolution 46/37 C, adopted by the United Nations General Assembly, had called upon all nuclear-weapon States to agree, through a joint declaration, to a comprehensive nuclear-arms freeze, which would embrace, besides a comprehensive test-ban on nuclear weapons and their delivery vehicles, the complete cessation of the production of fissionable material for weapons purposes under appropriate and effective measures and procedures for verification. Those States were convinced that the need for urgent multilateral action on the cessation of the nuclear arms race and nuclear

disarmament, leading to the adoption of concrete measures, had been amply demonstrated especially in the present-day international climate. In their opinion, multilateral negotiations on nuclear disarmament had long been overdue. They took note of the progress achieved in the bilateral negotiations in the nuclear field and looked forward to further reductions in strategic nuclear arsenals in the context of the START process. However, according to these delegations, bilateral negotiations could not replace or bypass the genuine multilateral search for universally applicable nuclear disarmament measures. All nations had a vital interest in negotiations on nuclear disarmament. They felt that the existence of nuclear weapons and their quantitative and qualitative development directly and fundamentally jeopardized the vital security interests of both nuclear and non-nuclear weapon States alike. They emphasized that it was an accepted fact that nuclear weapons posed the greatest danger to mankind and to the survival of civilization. The present international situation and the end of the cold war lent further credence to the long-standing demand of an overwhelming majority of the world community to take further urgent measures for the elimination of nuclear weapons. The accumulation of nuclear weaponry constituted a threat to the very security that it sought to protect. In the nuclear age, the only valid doctrine was the doctrine of collective security. Moreover according to them the doctrines of nuclear deterrence, which in the ultimate analysis were predicated upon a willingness to use nuclear weapons, could not be the basis for preventing the outbreak of nuclear war, which was now a real danger due to possible loss of control over existing arsenals. A nuclear war would affect participants and innocent bystanders alike. Those members of the Conference on Disarmament reiterated the validity of General Assembly resolution 1653 (XVI), of 1961, which declared, inter alia, that the use of nuclear weapons would be contrary to the laws of humanity and a crime against civilization. They considered that in the task of achieving the goal of nuclear disarmament, the nuclear-weapon States bore a special responsibility. All nuclear-weapon States should accept the obligation to take positive and practical steps in a time-bound manner towards the adoption and implementation of concrete measures towards nuclear disarmament. Paragraph 50 of the Final document of SSOD-1 set out guidelines for the Conference on Disarmament to provide an effective and complementary process in the multilateral framework. Those States remained firmly committed to the implementation of the provisions of that paragraph.

42. Three other delegations, belonging to the Group of 21, who had a different position, while stressing the continued crucial importance of the subject of cessation of the nuclear arms race and nuclear disarmament, felt that a fresh look should be taken at the nuclear-related issues. The new world situation after the end of the cold war as well as agreed cuts in the nuclear arsenals and unilateral measures in the same direction could not fail to have an impact on the approach to the nuclear-related issues. According to these three delegations the Conference on Disarmament should consider these important questions in a broader context, taking also into account among other things the risk of proliferation of nuclear weapons to countries which have up to now not possessed such weapons.

43. One delegation, speaking on behalf of the delegations of Bolivia, Colombia, Ecuador, Venezuela and Peru introduced the Cartagena Declaration on Renunciation of Weapons of Mass Destruction (CD/1114) signed on 4 December 1991.

44. One delegation belonging to the Group of 21 stated that despite the NPT, there were today more nuclear weapons stationed in a larger number of countries; there were differing estimates of the number of nuclear warheads with unresolved questions of their accountability and control and there were worries of smuggling of fissionable material and clandestine transfer to terrorists. According to this delegation, the overwhelming focus of all efforts at non-proliferation had been to prevent non-nuclear-weapon States from acquiring nuclear weapons while nuclear weapons proliferated in geometric proportions and new generation of nuclear weapons were invented and deployed in nuclear-weapon States. Since 1968, several non-nuclear-weapon States had developed or acquired sophisticated technology in the nuclear field. This delegation held that in this changed scenario, it was unrealistic to achieve non-proliferation through a discriminatory treaty which came into effect in 1968 since it failed to provide an acceptable balance of mutual responsibility and obligations between nuclear and non-nuclear-weapon States. This delegation stated that closed door "clubs", "groups" and "regimes" created to impose unilateral restrictions on trade in technology, equipment and material on a discriminatory basis could not prevent proliferation. Non-proliferation had to be addressed in all its aspects and the only realistic solution to stop proliferation was to have a global and comprehensive approach to the problem. In its view, just as chemical and biological weapons were matters of global concern, a new international understanding and consensus on what constituted non-proliferation was urgently required so that the pursuit of a global approach to non-proliferation which was universal, comprehensive and non-discriminatory was seriously attempted. This delegation recalled a specific Action Plan presented by its Government, eventually leading to a nuclear-weapon-free and non-violent world as an ultimate goal at the Third Special Session on Disarmament in 1988. It noted that this Plan, which had assumed increased relevance in the present day context, outlined a systematic, rational and practicable time-frame to achieve these objectives. The Plan recognized the need for flexibility in the staging of these measures and called upon all States, nuclear, threshold and others, to accept equal obligations without discrimination. The same delegation stated that due to its apprehension on the question of fissile material for nuclear weapons purposes, it had proposed a freeze on the production of nuclear weapons and related fissile material as early as SSOD-II and simultaneously had presented a paper at SSOD-III on New Technologies and the Qualitative Arms Race. This delegation elaborated upon elements which could constitute the scope for a cut-off proposal, and stated that so long as the envisaged regime for an international control on fissile material production was based on one set of rules for nuclear-weapon States and another for the rest, verification of such a cut-off will remain difficult. It stated that existing stockpiles of weapons grade fissionable material and the availability of such material through recycling of warheads would also need to be taken into account.

45. Another delegation member of the Group of 21 recalled the salient provisions of its country's initiatives on the establishment of a nuclear-weapon-free zone in the Middle East and declaring the Middle East free from all weapons of mass destruction. The same delegation noted the growing international support for these initiatives. Several delegations reiterated in the 1992 CD session their support to the above-mentioned initiatives. The same delegation highlighted ideas on enhancing the security of the countries of the region through the lowest level of armament and through a qualitative and quantitative balance between the military capabilities of all States in a region, long torn by conflicts. Fully supporting the peace process in the Middle East launched in Madrid last October, the same delegation considered this process directed towards achieving a just and lasting peace in the Middle East so as to provide prosperity and development for all nations in the region.

46. One delegation of the Group of 21 which belongs to the Group of the three above-mentioned States maintained that nuclear deterrence, devised in the context of the cold war through the phased management of the strategic crisis to prevent the confrontation from leading the opponents to self-destruction, made arms control its essential tool as a way of keeping the arms race between the two main power blocs within manageable limits. Arms control was therefore incapable of halting the vertical proliferation of nuclear weapons. In the opinion of that delegation, the end of the cold war as a result of the collapse of Communism and the disappearance of the Soviet Union had taken nuclear deterrence to its historical crisis point and arms control to the point where, apart from the strange exception of one intermediate nuclear Power, it did not occur to anyone today to advocate renewing nuclear arsenals. The emerging new world order afforded a good opportunity to update the Baruch Plan with a view to the total elimination of nuclear weapons. That process of selective disarmament could be strengthened by the establishment of regional or subregional zones that were free from weapons of mass destruction and the Cartagena Declaration adopted by Bolivia, Colombia, Ecuador, Peru and Venezuela was an important precedent in that regard.

47. One nuclear-weapon State belonging to the Group of East European and other States* stressed that the main orientations of the policy of its Government in the field of limitation and reduction of armaments was predicated on the firm conviction that this State was not even a potential adversary of other States, whether in the West, East, North or South. In its view this premise created a fundamentally new political context applying also to the work of the Conference on Disarmament. The gap between the new political realities and the military technological situation presented itself in the most dramatic terms in the fact that the strategic forces of the nuclear Powers, despite their political positions, remained targeted on each other's territories. According to this State while the best solution would be the total elimination of nuclear weapons, this could not be done overnight. Hence, its proposal that the strategic offensive weapons which Russia and the United States would retain after the upcoming deep cuts should not be targeted on United States or Russian facilities, respectively, nor on other countries.

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* The reference to the Group of East European and other States here and elsewhere in the Report includes the following States: Bulgaria; Czech and Slovak Federal Republic; Hungary; Poland; Romania; and the Russian Federation.

This proposal could be implemented by certain ideas. Firstly, to consider the question of taking off alert status the strategic forces of Russia, the United States and other nuclear Powers that were targeted on one another's territories and facilities, thereby attaining a kind of "zero action-readiness" of nuclear weapons. Secondly, separate storage of nuclear weapons' delivery vehicles and warheads. That would provide assurance against the unauthorized or accidental use of nuclear weapons. Another advantage of such a measure was that it would be verifiable and the details of verification could be agreed upon. Thirdly, there was a need for a fundamental reassessment of the entire military-strategic situation in the world and, accordingly, of nuclear military doctrines. It suggested that a new look could be taken at ideas proposed in the past concerning control of nuclear weapons by an international organization, for example, the United Nations. Moreover, thought might be given to exchanging on a reciprocal basis among all nuclear Powers data on the number and types of existing nuclear weapons, the quantity of fissionable materials and on nuclear-weapons production, storage and elimination facilities. According to this State agreement to that effect could be reached at the Conference on Disarmament, in which all the nuclear Powers were represented and which had experience in dealing with similar issues in the context of the negotiations on chemical weapons. The main contribution to resolving all questions relating to nuclear disarmament should now be made by two major nuclear-weapon States. Other nuclear Powers could join the process of nuclear disarmament later, when the nuclear arsenals of all the States possessing them would have become comparable. This State declared its full support for the activities of the International Atomic Energy Agency and was in favour of strengthening the effectiveness of its safeguards. The State announced its decision to adhere to the principle of full-scale or "IAEA comprehensive guarantees" as a condition of its peaceful nuclear exports.

48. Two nuclear-weapon States announced that their presidents had reached an extraordinary agreement between them on two areas of vital importance to both their countries and to the world. The agreement signed between them on 17 June 1992 would further reduce the two nuclear arsenals well below the totals agreed by the START Treaty. The total number of strategic nuclear weapons for both sides would be reduced from 21,000 to 6-7,000. This target would be accomplished in two phases. Under the first phase, deployed warheads for each side would be reduced to a number between 3,800 to 4,250. In the second phase, the total number of strategic nuclear weapons for each side would drop down to a number between 3,000 to 3,500 warheads, with each nation determining the exact figure it considered appropriate to ensure its defence and security. Of special importance was the agreement to eliminate in the second phase heavy ICBM's and ICBM's with multiple individually targeted warheads. In the framework of agreed reductions, each side would have a certain degree of freedom with respect to the specific configuration of its strategic offensive weapons, taking into account its security requirements. The second phase would be completed no later than the year 2003 and might be completed as early as the year 2000 if the United States could assist Russia in the required destruction of ballistic missile systems. This agreement was generally welcomed in the Conference.

49. The Western Group welcomed discussions in the Conference on Disarmament on nuclear disarmament because it believed that such discussions played a positive role in strengthening international security and stability in the nuclear age. The Group stated that nuclear disarmament remained one of its highest priorities. It stressed that since the process of disarmament affected the vital security interests of all States, all should be actively involved and contribute to measures of disarmament and arms limitation. Nuclear proliferation was one of the greatest threats to worldwide security and stability. Thus, nuclear disarmament and the questions of non-proliferation of nuclear arms, particularly following the political changes of the last 12 months, represented one of the most serious challenges and demanded the attention and commitment of all members of the Conference on Disarmament.

50. The Western Group noted that the last 18 months had seen some positive steps in the process of nuclear disarmament and in strengthening the nuclear non-proliferation regime. It welcomed the progress made by the United States and Russia in their bilateral negotiations, especially the unilateral decisions taken by them to eliminate all land-based short-range nuclear weapons. The Group hoped that the implementation of these measures would take place in the best possible conditions of security and transparency. They were of the view that these initiatives should lead to further far-reaching steps to enhance security and stability at the lowest possible level of forces. The Group supported the continuation of negotiations between the United States and Russia on defence and space issues. The Western Group welcomed the various initiatives taken in Latin America. It supported efforts to make progress both towards peace and in disarmament in the Middle East and recalled its support for President Mubarak's initiative to make the Middle East a zone free of weapons of mass destruction. The Group also looked forward to an early implementation of the agreement between the Democratic People's Republic of Korea and the IAEA. The group viewed each of the above steps as a major contribution towards substantial reductions in the global level of nuclear weapons, leading to the shared, ultimate goal of global nuclear disarmament.

51. The Western Group believed that while the primary responsibility for nuclear disarmament rested with those States which possessed the most important nuclear arsenals, the international community as a whole had to be actively involved and contribute to measures of nuclear disarmament and arms limitations and to non-proliferation. The Group wished to see the achievement of further such substantial reductions and a reinforcement of existing barriers to nuclear weapon proliferation.

52. The Western Group reaffirmed its strong commitment to nuclear non-proliferation in general and the Non-Proliferation Treaty in particular as a corner-stone of the international regime of non-proliferation. The Group welcomed recent accessions to the NPT and urged all States that have not yet done so to adhere to that treaty. The Group welcomed the recent signing in Lisbon of the protocol to the START Treaty and reiterated the importance it attached to the single control of nuclear weapons and to the effective control of nuclear exports from all the new States of the former Soviet Union. The Group along with some other delegations welcomed the establishment of an international research centre in Russia to coordinate research in various fields.

53. It was the view of the Western Group that the Nuclear Suppliers Group and the Missile Technology Control Regime were key instruments for the control of transfers of sensitive nuclear and missile materials, technology and equipment. The Group welcomed recent decisions of the NSG to control exports of nuclear-related dual use items and to require fullscope safeguards as a condition of supply, while recognizing at the same time the legitimate interest of the international community in the transfer of high technology for civil purposes. The group wished that discussion and cooperation would continue in this field.

54. One delegation, member of the Western Group, outlined a seven-point plan for the prevention of the proliferation of nuclear weapons presented by its Prime Minister on 21 May, which contained the following steps: first, to extend indefinitely and to strengthen the Nuclear Non-Proliferation Treaty when it comes up for review in 1995; second, to strengthen the mandate of the International Atomic Energy Agency and to increase its resources in order to stop nuclear cheating; third, to tighten controls on the export of nuclear weapons' technologies; fourth, to stop the sale of nuclear brainpower to States wishing to develop or strengthen their nuclear weapons potential; fifth, to strengthen regional security cooperation so as to reduce the underlying causes of tension; sixth, the 1995 NPT Review Conference should confirm the basic bargain implicit in the NPT, a commitment of the nuclear Powers to reduce nuclear weapons in return for a commitment by the non-nuclear Powers not to acquire any such weapons; seventh, it would be reasonable for those States which have acquired nuclear weapons to give assurances to all those countries which have signed the NPT as non-nuclear weapons States, that such weapons would never be used against them.

55. One nuclear-weapon State member of the Western Group recalled the initiatives it had taken to promote nuclear disarmament and non-proliferation, inter alia its decision to accede to the NPT and to ratify Additional Protocol I to the Tlatelolco Treaty, and the suspension of its nuclear testing in 1992. It stressed that the recent positive trend towards real nuclear disarmament could be jeopardized if some non-nuclear-weapon States attempted to acquire nuclear weapons. It supported the aspirations of the overwhelming majority of the developing countries who made the choice of non-proliferation and needed to increase their cooperation with the industrialized countries.

56. One nuclear-weapon State not belonging to any group continued to view nuclear disarmament as an issue of paramount importance. It indicated that it had all along stood for the complete prohibition and thorough destruction of nuclear weapons. It held that to achieve this objective the two major nuclear-weapon States should assume a special responsibility and obligation to take the lead in halting the testing, production and deployment of nuclear weapons and drastically cut all types of nuclear weapons deployed at home and abroad, thus creating conditions for convening a broadly representative international conference on nuclear disarmament with the participation of all nuclear-weapon States. It welcomed the recent progress made by the two major nuclear Powers, such as the complete implementation of the INF Treaty, the signing of the START Treaty and the conclusion of the agreement on further reduction of nuclear warheads. It considered, nevertheless, that the two

major nuclear Powers would still possess the largest nuclear arsenals in the world even after their nuclear warheads are reduced as planned, which continued to be a serious threat to international peace and security. It further stated that all the nuclear weapons thus cut should be destroyed and the nuclear warheads duly disposed of. The reductions should not be confined merely to the nuclear weapons on the territories of the two major nuclear Powers and in Europe, but should also include those deployed by them in Asia and the Pacific. It stated that, for the purpose of maintaining world peace and promoting the security of all nations, it did not advocate, encourage or engage in nuclear proliferation. In 1988 its Government signed a unilateral submission agreement with IAEA to place a part of its nuclear energy installations under the Agency's safeguards. On 9 March this year, its Government deposited its instrument of accession to the NPT and became a member of the Treaty.

C. Prevention of Nuclear War, including all Related Matters

57. At its 612th plenary meeting on 13 February 1992, the Conference decided that informal meetings be held during its 1992 session on the substance of the agenda item, and that the discussions at those informal meetings be duly reflected in the annual report of the Conference to the General Assembly of the United Nations. Three informal meetings devoted to the agenda item were held between 21 May and 25 June 1992.

58. At the time of the adoption of that decision, the President of the Conference made the statement referred to in paragraph 25 above and read out the following list of topics (CD/PV.612):

> "The impossibility of separating the problems of preventing nuclear war and preventing any war
>
> Measures to exclude the use of nuclear weapons, *inter alia*:
>
> > Paragraph 58 of the Final Document of the Tenth Special Session of the General Assembly (code of peaceful conduct that would preclude the use or threat of use of nuclear weapons)
> >
> > International convention prohibiting the use or threat of use of nuclear weapons under any circumstances (text annexed to General Assembly resolution 43/76 E of 7 December 1988)
> >
> > Prohibition in a legally binding form of the use of nuclear weapons
>
> Measures for confidence-building and crisis prevention:
>
> > Measures to enhance confidence and increase openness with regard to military activities, including a multilateral agreement on the prevention of incidents on the high seas
> >
> > Measures to prevent accidental or unauthorized use of nuclear weapons and to avoid and manage crisis situations, including the establishment of multilateral nuclear alert and crisis control centres

Measures to facilitate international verification of compliance with arms limitation and disarmament agreements

Criteria and parameters for defensive military postures; military strategies and doctrines; prevention of surprise attacks

New trends in weapons technology and their impact on security and disarmament efforts

Measures to foster regional agreements preventing the acquisition, use or transfer of nuclear weapons material and technologies to other States

Measures that the international community can take to discourage States from developing and implementing nuclear weapons programmes."

59. No new documents were submitted to the Conference specifically under the agenda item during the 1992 session, although references were made by some delegations to documents listed in paragraph 38 above as relevant for agenda item 3.

60. Various issues relating to the prevention of nuclear war, including all related matters were addressed by delegations at plenary meetings of the Conference. These statements, which contributed to further explanation of the positions of delegations, appear in the verbatim records of the Conference. The subject was also discussed at the informal meetings devoted to the agenda item.

61. The Group of 21 joined the consensus to discuss this item in the informal meetings.

62. Nineteen members of the Group of 21 placed on record their regret at the inability of the Conference on Disarmament to set up an ad hoc committee. Once again they emphasized the importance that they attached to this item. They believed that as long as nuclear weapons continued to exist in the arsenals of some States the greatest peril facing the world was the threat of destruction from a nuclear war, and that consequently the removal of this threat was most acute and urgent. Nuclear-weapon States continued to bear the primary responsibility for avoiding nuclear war, but all nations had a vital interest in the negotiation of measures for prevention of nuclear war, in view of the catastrophic consequences that such a war would have for mankind. These States recalled that as far back as 1961, General Assembly resolution 1653 (XVI) had declared that the use of nuclear weapons, besides being a violation of the Charter of the United Nations, would be against the laws of humanity and a crime against civilization. Furthermore, the Heads of State or Government of the Non-Aligned Countries, in their various summits, had always emphasized the extreme urgency of achieving nuclear disarmament through the complete elimination of nuclear weapons and had stressed the need for the conclusion of an international agreement prohibiting all use of nuclear weapons under any circumstances. These States believed that it should be a matter of concern for all delegations present in this Conference that no progress had been made on this item since its introduction as a separate item on the Conference's agenda in accordance with General Assembly resolution 38/183 G. However, it should be recognized that the nuclear arms

race had experienced a downturn following the end of the cold war. It was therefore imperative for the nuclear-weapon States to undertake effective unilateral or collective measures that would lead to the reduction and eventual elimination of the instruments with which to conduct nuclear war. Additionally, these States believed that nuclear-weapon States should halt the modernization and expansion of their arsenals, as the motivation to do so had been virtually eliminated as a result of the international political changes.

63. Three other delegations, belonging to the Group of 21, who had a different position, felt that the recent international development, including the end of the cold war, comprised positive signs, which should not fail to influence the treatment of the nuclear-related issues in general within the Conference on Disarmament. The risk of nuclear war was certainly not eliminated and was still a horrible threat to mankind. However, in the new international climate the Conference had reason to review the appropriate way and methodology to treat this important item.

64. Nineteen members of the Group of 21 recalled that the United Nations General Assembly had repeatedly requested the Conference on Disarmament to commence, as a matter of the highest priority, negotiations with a view to achieving agreement on appropriate and practical measures for the prevention of nuclear war and to establish for that purpose an ad hoc committee on this subject. During its 1991 session, the General Assembly had adopted resolution 6/37 D entitled "Convention on the Prohibition of the Use of Nuclear Weapons", in which it had reiterated the call to the Conference on Disarmament to commence negotiations, as a matter of priority, in order to reach agreement on an international convention prohibiting the use or threat of use of nuclear weapons under any circumstances, taking as a basis for its work the draft convention annexed to that resolution.

65. The same delegations stressed that in view of the irreversible consequence of nuclear war, it was clear that conventional wars could not under any circumstances be equated with nuclear war, since nuclear weapons were weapons of mass destruction. In this context, invoking the Charter of the United Nations to justify the use of nuclear weapons in the exercise of the right to self-defence was completely unjustifiable. These delegations still remained convinced, despite the end of the cold war, that the shortest way to remove the danger of nuclear war lay in the elimination of nuclear weapons and that, pending the achievement of nuclear disarmament, the use or threat of use of nuclear weapons should be prohibited.

66. These States remained committed to the position expressed in CD/515/Rev.5, of 27 July 1989, for the establishment of an ad hoc committee that would permit thorough consideration of all aspects - legal, political, technical and military - of all the proposals before the Conference. They believed that such consideration would not only contribute to a better understanding of the subject but would also pave the way for negotiations for an agreement on the prevention of nuclear war. Such an objective could not be achieved only through discussions in the plenary or in informal meetings. These delegations were disappointed, therefore, that despite the urgency accorded to this subject and the flexibility they had displayed, the Conference on Disarmament was not able to discharge its own mandate, which had been reflected in paragraph 120 of the Final Document of SSOD-1.

67. One delegation member of the Group of 21 belonging to the Group of the three above-mentioned States emphasized that concern had been raised regarding the control of the nuclear arsenal that had been previously under the control of the former Soviet Union. The reality that some new independent States had found themselves with nuclear weapons on their territory could not be ignored. Effective guarantees of the control of this vast nuclear arsenal should be reassuring to the international community.

68. Another delegation, belonging to the Group of 21, stated that in keeping with its long-standing proposal for an international convention prohibiting the use or threat of use of nuclear weapons, it had been heartened by the proposals made by one nuclear-weapon State regarding non-targetting of strategic nuclear weapons, taking these weapons off their alert status and keeping delivery vehicles and warheads separate. It saw progress in the thinking, notably of this nuclear-weapon State, that all nuclear-weapon States should join the process of nuclear disarmament.

69. The Western Group remained of the view that the prevention of nuclear war could only be dealt with satisfactorily in the broader context of the prevention of war in general. Peace and security could be achieved only through full observance of the principles set out in the Charter of the United Nations and of other relevant obligations under international law. The maintenance and enhancement of international security depended on responsible behaviour in relations between States. Such behaviour should strictly abide by the provisions contained in Article 2, paragraph 4 of the Charter, as well as other relevant obligations. However, the responsible conduct of States in maintaining international and national security required more than just refraining from aggression. States should also demonstrate respect for international peace and security by engaging in measures of arms control, arms reduction and confidence-building. The Western Group noted that it was important that the Conference continue to keep abreast of all disarmament initiatives and in particular encourage the process of nuclear disarmament and non-proliferation of nuclear arms. The Group welcomed recent progress and would continue to work towards the objective of achieving lasting international peace and security. In this connection, it further recalled its views on Item 2 of the agenda, which were also applicable to the consideration of Item 3.

70. One nuclear-weapon State which belongs to the Group of East European and other States indicated that 1992 marked the thirtieth anniversary of the time when multilateral negotiations on the limitation and reduction of armaments had begun in Geneva. They had achieved important results: treaties and agreements limiting the arms race in outer space and on Earth. Of special significance was the Treaty on the Non-Proliferation of Nuclear Weapons, whose strictest observance and strengthening was today's international political priority. The talks with the leaders of many States and the results of the summit meeting of the United Nations Security Council in January 1992 showed that qualitatively new, friendly relations were being created - in the long run, even relations of alliance - between former potential adversaries. The Conference on Disarmament should proceed to solve unprecedently bold tasks, such as dismantling the military juggernaut and, most of all, its active

involvement in the arms-reduction and confidence-building measures themselves. The conversion of military industry, scientific knowledge and human resources have acquired special urgency. That State emphasized that it would pursue a policy towards radical reduction of nuclear weapons and would ensure the maximum security of nuclear weapons and all related facilities. In this connection, the delegation referred to the proposal made by the President of its State on 29 January 1992 (CD/1123) to set up an international agency to ensure the reduction of nuclear weapons, an agency which at subsequent stages could have under its control the whole nuclear cycle. The delegation also announced the intention of its State to become a fully-fledged participant in the international Missile Technology Control Régime (MTCR). It was setting up for that purpose a State export-control system for "dual-purpose" materials and technology.

71. One nuclear-weapon State not belonging to any Group stressed that it was the common aspiration of all countries in the world to reduce nuclear armaments and prevent nuclear war, and that the United Nations General Assembly had repeatedly requested the Conference on Disarmament to undertake negotiations on these items as a matter of the highest priority. It recalled that, being a nuclear State, it had always underlined the great importance of these questions and actively taken part in the discussions. It called on the international community to make unremitting efforts for achieving the goal of the complete prohibition and the thorough destruction of nuclear weapons. It pointed out that pending its realization, as an effective measure for the prevention of nuclear war, all nuclear-weapon States should undertake the following commitments: (a) not to be the first to use nuclear weapons at any time and under any circumstances, and conclude an international agreement to that effect; (b) not to use or threaten to use nuclear weapons against non-nuclear-weapon States and nuclear-weapon-free zones, and conclude an international legal instrument in this regard; (c) to support the proposals for the establishment of nuclear-weapon-free zones, respect their status and undertake the corresponding obligations; (d) to pull back all nuclear weapons deployed abroad. The same delegation reminded the Conference that the limited number of nuclear weapons in its possession was solely for the purpose of self-defence. Since the very first day that the State concerned had come into possession of nuclear weapons, it had unilaterally undertaken that at no time and under no circumstances would it be the first to use nuclear weapons.

D. Chemical Weapons

72. The list of new documents presented to the Conference during its 1992 session under the agenda item is contained in the report submitted by the Ad Hoc Committee referred to in the following paragraph.

73. At its 635th plenary meeting, on 3 September 1992, the Conference adopted the report of the Ad Hoc Committee re-established by the Conference under the agenda item at its 606th plenary meeting (see paragraph 8 above), as well as its appendix containing, *inter alia*, the draft Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction. Both the report and its appendix, as contained in document CD/1170, form integral parts of this report. The report reads as follows:

"I. INTRODUCTION

"1. At its 606th plenary meeting on 21 January 1992, the Conference on Disarmament adopted the following decision on the re-establishment of the Ad Hoc Committee on Chemical Weapons (CD/1120):

> 'The Conference on Disarmament, keeping in mind General Assembly resolution 46/35 C, decides to re-establish, in accordance with its Rules of Procedure, for the duration of the 1992 session, the Ad Hoc Committee on Chemical Weapons to continue and intensify, as a priority task, the negotiations on a multilateral Convention on the complete and effective prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction with a view to achieving a final agreement on the Convention during 1992.'

"II. ORGANIZATION OF WORK

"2. At its 606th plenary meeting on 21 January 1992, the Conference on Disarmament appointed Ambassador Adolf Ritter von Wagner of Germany as Chairman of the Ad Hoc Committee. Mr. Abdelkader Bensmail, Senior Political Affairs Officer, Office for Disarmament Affairs, continued to serve as Secretary of the Ad Hoc Committee. Mrs. Hannelore Hoppe, Political Affairs Officer, Office for Disarmament Affairs, continued to serve as Deputy Secretary of the Ad Hoc Committee.

"3. The Ad Hoc Committee held 32 meetings from 24 January to 26 August 1992.

"4. At their request, representatives of the following States not members of the Conference, participated in the work of the Ad Hoc Committee: Austria, Bolivia, Cameroon, Chile, Colombia, Costa Rica, Democratic Republic of Korea, Denmark, Ecuador, Finland, Ghana, Greece, Holy See, Iraq, Ireland, Israel, Jordan, Kuwait, Libyan Arab Jamahiriya, Malaysia, Malta, Mauritius, New Zealand, Norway, Oman, Panama, Philippines, Portugal, Qatar, Republic of Korea, Senegal, Singapore, South Africa, Spain, Switzerland, Syrian Arab Republic, Thailand, Tunisia, Turkey, Ukraine, United Arab Emirates, United Republic of Tanzania, Uruguay, Viet Nam, Zimbabwe.

"III. DOCUMENTATION

"5. During the 1992 session, the following official documents dealing with chemical weapons were presented to the Conference on Disarmament:

- CD/1112, dated 9 October 1991, entitled 'Letter dated 7 October 1991 from the Permanent Representative of Finland addressed to the Secretary-General of the Conference on Disarmament transmitting the latest volume of the Blue Book series on verification of chemical disarmament, entitled "Training Programme in Analytical Methods and Instrumentation of the Verification of Chemical Disarmament; G.1 Basic Course"'.

- CD/1114, dated 9 January 1992, entitled 'Letter dated 7 January 1992 from the representatives of Bolivia, Colombia, Ecuador, Peru and Venezuela addressed to the Secretary-General of the Conference on Disarmament transmitting the text of the Cartagena Declaration on Renunciation of Weapons of Mass Destruction, signed at Cartagena de Indias, Colombia, on 4 December 1991 by the five Heads of State of the member countries of the Andean Group'.

- CD/1116, dated 20 January 1992, entitled 'Report of the Ad Hoc Committee on Chemical Weapons to the Conference on Disarmament on its work during the period 30 September 1991 to 20 January 1992'.

- CD/1120, dated 22 January 1992, entitled 'Decision on the re-establishment of the Ad Hoc Committee on Chemical Weapons for the 1992 session'.

- CD/1127 and Corr.1 (also issued as CD/CW/WP.384 and Corr.1), dated 18 February 1992, submitted by the delegation of China, entitled 'Some information on discovered chemical weapons abandoned in China by a foreign State'.

- CD/1128 (also issued as CD/CW/WP.385), dated 20 February 1992, submitted by the delegation of Australia, entitled 'Trial inspection of a Schedule 3/other relevant facility'.

- CD/1129 (also issued as CD/CW/WP.386), dated 20 February 1992, submitted by the delegation of Australia, entitled 'Australian National Secretariat: survey of chemical industry'.

- CD/1130 (also issued as CD/CW/WP.387), dated 20 February 1992, submitted by the delegation of China, entitled 'Principled position and proposals on the issue of abandoned chemical weapons'.

- CD/1132, dated 21 February 1992, entitled 'Letter dated 19 February 1992 from the Deputy Permanent Representative of Canada addressed to the Secretary-General of the Conference on Disarmament transmitting compendia on chemical weapons comprising plenary statements and working papers from the 1991 session of the Conference on Disarmament'.

- CD/1134, dated 24 February 1992, entitled 'Letter dated 21 February 1992 from the Permanent Representative of Chile addressed to the Secretary-General of the Conference on Disarmament transmitting the text of the statement issued by the Acting Minister for Foreign Affairs of Chile concerning international disarmament'.

- CD/1135 (also issued as CD/CW/WP.388), dated 24 February 1992, submitted by the delegation of Hungary, entitled 'Provision of data relevant to the Chemical Weapons Convention'.

- CD/1136 (also issued as CD/CW/WP.389), dated 27 February 1992, submitted by the delegation of the Czech and Slovak Federal Republic, entitled 'Protection against chemical weapons (data bank of available basic means)'.

- CD/1140, dated 28 February 1992, entitled 'Letter dated 25 February 1992 from the Representative of Germany addressed to the President of the Conference on Disarmament transmitting the official text of the letter dated 8 February 1992 from the Foreign Minister of the Federal Republic of Germany addressed to the member States of the Conference on Disarmament concerning the Ad Hoc Committee on Chemical Weapons'.

- CD/1141 (also issued as CD/CW/WP.390), dated 3 March 1992, submitted by the delegation of France, entitled 'Provision of data relevant to the Chemical Weapons Convention'.

- CD/1143, dated 12 March 1992, submitted by the delegation of Australia, entitled 'Proposed Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction'.

- CD/1146 (also issued as CD/CW/WP.392), dated 17 March 1992, submitted by the delegation of Poland, entitled 'Solid-phase extraction as a possible way of chemical warfare agents sampling for their analysis in laboratories under the Chemical Weapons Convention'.

- CD/1152 (also issued as CD/CW/WP.410), dated 5 June 1992, submitted by the delegation of Spain, entitled 'Report on a trial challenge inspection'.

- CD/1153 (also issued as CD/CW/WP.412), dated 11 June 1992, entitled 'Letter dated 11 June 1992 from the Chargé d'affaires a.i. of Norway addressed to the President of the Conference on Disarmament, transmitting a research report, entitled "Verification of a Chemical Weapons Convention: recommended operating procedures for sampling and sample handling, Part XI"'.

- CD/1155, dated 22 June 1992, entitled 'Letter dated 19 June 1992 from the Permanent Representative of Finland addressed to the Secretary-General of the Conference on Disarmament transmitting the latest volume of the blue book series on verification of chemical disarmament, entitled "International Interlaboratory Comparison (Round-Robin) Test for the Verification of Chemical Disarmament; F.3. Testing of Procedures on Simulated Military Facility Samples"'.

- CD/1157, dated 25 June 1992, entitled 'Letter dated 24 June 1992 from the Permanent Representative of Australia to the United Nations for Disarmament Matters addressed to the Secretary-General of the Conference on Disarmament transmitting the statement issued by participating States at the Conclusion of the Third Chemical Weapons Regional Seminar, held in Sydney, Australia, from 21 to 23 June 1992'.

- CD/1161 (also issued as CD/CW/WP.426), dated 5 August 1992, entitled 'Letter dated 3 August 1992 from the Representative of the United States of America addressed to the President of the Conference on Disarmament transmitting the Agreement between the Department of Defense of the United States of America and the President's Committee on Conventional Problems of Chemical and Biological Weapons of the Russian Federation concerning the Safe, Secure and Ecologically Sound Destruction of Chemical Weapons'.

- CD/1164, dated 7 August 1992, entitled 'Statement made on behalf of the "Australia Group" by the Representative of Australia, Ambassador Paul O'Sullivan, at the 629th Plenary Meeting of the Conference on Disarmament'.

- CD/1168 (also issued as CD/CW/WP.428), dated 13 August 1992, entitled 'Letter dated 12 August 1992 from the Representative of the United Kingdom of Great Britain and Northern Ireland addressed to the Secretary-General of the Conference on Disarmament transmitting a paper which addressed the requirements for safety during the on-site inspections provided for under the Chemical Weapons Convention'.

- CD/1169 (also issued as CD/CW/WP.437), dated 24 August 1992, entitled 'Letter dated 24 August 1992 from the Representative of Norway addressed to the Secretary-General of the Conference on Disarmament, transmitting a report entitled "Transport of samples containing chemical warfare agents by air"'.

"6. In addition, the following Working Papers were presented to the Ad Hoc Committee:

- CD/CW/WP.367, dated 7 October 1991, submitted by the delegation of the Union of Soviet Socialist Republics, entitled 'Main technological aspects of the destruction of chemical weapons (an approach proposed by Soviet experts)'.

- CD/CW/WP.368, dated 7 October 1991, submitted by the delegation of the Union of Soviet Socalist Republics, entitled 'Environmental aspects of the destruction of chemical weapons (an approach proposed by Soviet experts)'.

- CD/CW/WP.369, dated 8 October 1991, submitted by the delegation of the Union of Soviet Socialist Republics, entitled 'Complex for the destruction of faulty chemical munitions (KUASI)'.

- CD/CW/WP.370, dated 9 October 1991, submitted by the delegation of Germany (Western group CW Co-ordinator), entitled 'Verification in the chemical industry under Article VI: informal discussion paper'.

- CD/CW/WP.371, dated 11 October 1991, presented by the Chairman of the Ad Hoc Committee, entitled 'Article IX: procedure for challenge inspections'.

- CD/CW/WP.372, dated 11 October 1991, submitted by the delegation of Switzerland, entitled 'Report on the second Swiss trial inspection'.

- CD/CW/WP.373, dated 21 October 1991, submitted by the delegation of the United Kingdom of Great Britain and Northern Ireland, entitled 'Destruction of CW stocks, weapons and associated plant (for the meeting on technical aspects of CW destruction, 7-11 October 1991)'.

- CD/CW/WP.374, dated 31 October 1991, submitted by the delegation of Germany, entitled '"Old chemical weapons" disposal'.

- CD/CW/WP.375, dated 20 November 1991, submitted by the delegation of Italy, entitled 'Italian experience of the destruction of old and obsolete chemical weapons'.

- CD/CW/WP.376, dated 6 December 1991, submitted by the delegation of The Netherlands, entitled 'Verification of alleged use of chemical warfare agents: retrospective immunochemical detection of exposure to mustard gas'.

- CD/CW/WP.377, dated 9 December 1991, presented by the Friend of the Chair on Technical Issues (Mr. P. Canonne), entitled 'Report of Experts' Meeting on the Destruction of Chemical Weapons'.

- CD/CW/WP.378, dated 16 December 1991, submitted by the delegations of Finland and The Netherlands, entitled 'Accreditation of verification laboratories'.

- CD/CW/WP.379, dated 20 January 1992, entitled 'Draft Report of the Ad Hoc Committee on Chemical Weapons to the Conference on Disarmament on its work during the period 30 September 1991 to 20 January 1992'.

- CD/CW/WP.380, dated 23 January 1992, entitled 'Working paper presented by the Chairman of the Ad Hoc Committee: Organization of work for the 1992 session'.

- CD/CW/WP.381, dated 14 February 1992, submitted by the delegation of the United States of America, entitled 'A report on the United States chemical weapons (CW) destruction experience at Rocky Mountain Arsenal, Colorado'.

- CD/CW/WP.382, dated 14 February 1992, submitted by the delegation of the United States of America, entitled 'Johnston Atoll Chemical Agent Disposal System (JACADS)'.

- CD/CW/WP.383 and Add.1, dated 14 February 1992, submitted by the delegation of the United States of America, entitled 'United States chemical weapons (CW) destruction safety and environmental requirements'.

- CD/CW/WP.384 (also issued as CD/1127).

- CD/CW/WP.385 (also issued as CD/1128).

- CD/CW/WP.386 (also issued as CD/1129).

- CD/CW/WP.387 (also issued as CD/1130).

- CD/CW/WP.388 (also issued as CD/1135).

- CD/CW/WP.389 (also issued as CD/1136).

- CD/CW/WP.390 (also issued as CD/1141).

- CD/CW/WP.391, dated 12 March 1992, presented by the Chairman of the Ad Hoc Committee, entitled 'Article IX: Procedure for challenge inspections'.

- CD/CW/WP.392 (also issued as CD/1146).

- CD/CW/WP.393, dated 26 March 1992, submitted by the delegation of the Islamic Republic of Iran, entitled 'Verification of the chemical industry under Article VI and its Annexes'.

- CD/CW/WP.394, dated 3 April 1992, entitled 'Chairman's tentative outline of work until the end of June 1992'.

- CD/CW/WP.395, dated 30 April 1992, presented by the Chairman of the Ad Hoc Committee, entitled 'Protocol on Inspection Procedures: Part III - Challenge inspections conducted pursuant to Article IX'.

- CD/CW/WP.396, dated 30 April 1992, submitted by the delegation of Austria, entitled 'The selection of gas chromatographic phase systems for verification analysis'.

- CD/CW/WP.397, dated 5 May 1992, submitted by the delegation of Austria, entitled 'Old chemical weapons: description of a long-term storage facility under safe conditions'.

- CD/CW/WP.398, dated 13 May 1992, submitted by the delegations of Australia, Belgium, Canada, France, Germany, Italy, Japan, The Netherlands, United Kingdom of Great Britain and Northern Ireland and United States of America, entitled 'Other relevant facilities'.

- CD/CW/WP.399, dated 18 May 1992, submitted by the delegation of Germany, entitled 'Cooperation of Signatory States with the Preparatory Commission'.

- CD/CW/WP.400 and Corr.1, dated 18 May 1992, presented by the Chairman of the Ad Hoc Committee, entitled 'Working paper for the final phase of the negotiations on the Chemical Weapons Convention'.

- CD/CW/WP.400/Rev.1, dated 22 June 1992, presented by the Chairman of the Ad Hoc Committee on Chemical Weapons, entitled 'Draft Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction'.

- CD/CW/WP.400/Rev.2, dated 10 August 1992, presented by the Chairman of the Ad Hoc Committee, entitled 'Draft Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction'.

- CD/CW/WP.401, dated 29 May 1992, submitted by the delegations of Switzerland and Sweden, entitled 'Anatomy of a chemical plant site'.

- CD/CW/WP.402, dated 4 June 1992, submitted by the delegations of Algeria, China, Egypt, India, Indonesia, Islamic Republic of Iran, Kenya, Mexico, Myanmar, Pakistan, Sri Lanka and Zaire, entitled 'The Preamble'.

- CD/CW/WP.403, dated 4 June 1992, submitted by the delegations of Algeria, China, Egypt, India, Islamic Republic of Iran, Kenya, Mexico, Myanmar, Pakistan, Sri Lanka and Zaire, entitled 'Article I: General Provisions on Scope'.

- CD/CW/WP.404, dated 4 June 1992, submitted by the delegations of Algeria, China, Egypt, India, Islamic Republic of Iran, Kenya, Mexico, Myanmar, Pakistan, Sri Lanka and Zaire, entitled 'Article II: Definitions and Criteria'.

- CD/CW/WP.405, dated 4 June 1992, submitted by the delegations of Algeria, China, Egypt, India, Islamic Republic of Iran, Kenya, Mexico, Myanmar, Pakistan, Sri Lanka and Zaire, entitled 'Old and Abandoned Chemical Weapons (proposed amendments to CD/CW/WP.400)'.

- CD/CW/WP.406, dated 4 June 1992, submitted by the delegations of Algeria, China, Egypt, India, Indonesia, Islamic Republic of Iran, Kenya, Mexico, Myanmar, Pakistan, Sri Lanka and Zaire, entitled 'Article VI: Activities not Prohibited Under the Convention'.

- CD/CW/WP.407, dated 4 June 1992, submitted by the delegations of Algeria, China, Egypt, India, Indonesia, Islamic Republic of Iran, Kenya, Mexico, Myanmar, Pakistan, Sri Lanka and Zaire, entitled 'Guidelines for Schedules of Chemicals'.

- CD/CW/WP.408, dated 4 June 1992, submitted by the delegations of Algeria, China, Egypt, India, Indonesia, Islamic Republic of Iran, Kenya, Mexico, Myanmar, Pakistan, Sri Lanka and Zaire, entitled 'Article IX: Consultations, Cooperation and Fact-finding'.

- CD/CW/WP.409, dated 4 June 1992, submitted by the delegations of Algeria, China, Egypt, India, Indonesia, Islamic Republic of Iran, Kenya, Mexico, Myanmar, Pakistan, Sri Lanka and Zaire, entitled 'Article XI: Economic and Technological Development'.

- CD/CW/WP.410 (also issued as CD/1152).

- CD/CW/WP.411, dated 5 June 1992, submitted by the delegation of Cuba, entitled, 'Aspects and principles of a system for funding the budget of the future Organization for the implementation of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction'.

- CD/CW/WP.412 (also issued as CD/1153).

- CD/CW/WP.413, dated 15 June 1992, presented by the Chairman of the Ad Hoc Committee on Chemical Weapons, entitled 'Tentative outline of work until the end of this year's session of the Conference on Disarmament (3 September 1992)'.

- CD/CW/WP.414, dated 26 June 1992, presented by the Chairman of the Ad Hoc Committee on Chemical Weapons, entitled 'Explanatory Note on the draft Chemical Weapons Convention contained in document CD/CW/WP.400/Rev.1'.

- CD/CW/WP.415, dated 26 June 1992, submitted by the delegations of Algeria, China, Egypt, India, Indonesia, Islamic Republic of Iran, Kenya, Mexico, Myanmar, Pakistan, Sri Lanka and Zaire, entitled 'Preliminary comments on the Chairman's draft (CD/CW/WP.400/Rev.1)'.

- CD/CW/WP.416, dated 22 July 1992, submitted by the delegation of Cuba, entitled 'Basic considerations concerning the functions, general structure and qualifications of the staff of the Technical Secretariat and the Advisory Board of the new international organization to be established to ensure compliance with the provisions of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction'.

- CD/CW/WP.417, dated 24 July 1992, submitted by the delegations of Algeria, China, Cuba, Egypt, Ethiopia, India, Indonesia, Islamic Republic of Iran, Kenya, Mexico, Myanmar, Pakistan, Sri Lanka and Zaire, entitled 'Proposed joint amendments to CD/CW/WP.400/Rev.1'.

- CD/CW/WP.418, dated 27 July 1992, submitted by the delegations of Algeria, China, Cuba, Egypt, Ethiopia, Indonesia, Islamic Republic of Iran, Kenya, Mexico, Pakistan, Sri Lanka and Zaire, entitled 'Proposed additional amendment to Article II'.

- CD/CW/WP.419, dated 27 July 1992, submitted by the delegation of the Russian Federation, entitled 'Proposed amendments to CD/CW/WP.400/Rev.1'.

- CD/CW/WP.420, dated 27 July 1992, submitted by the delegation of Cuba, entitled 'Proposed amendments to CD/CW/WP.400/Rev.1'.

- CD/CW/WP.421, dated 27 July 1992, submitted by the delegation of Peru, entitled 'Proposed amendments to CD/CW/WP.400/Rev.1'.

- CD/CW/WP.422, dated 4 August 1992, submitted by the delegation of Austria, entitled 'Results of a trial identification of "capable facilities" in Austria'.

- CD/CW/WP.423, dated 4 August 1992, submitted by the delegation of Austria, entitled 'Proposal for the identification of "capable facilities" within the framework of the Chemical Weapons Convention'.

- CD/CW/WP.424, dated 4 August 1992, submitted by the delegation of the Islamic Republic of Iran, entitled 'Ethanolamines'.

- CD/CW/WP.425, dated 4 August 1992, submitted by the delegation of the Islamic Republic of Iran, entitled 'Definition of chemical weapons'.

- CD/CW/WP.426 (also issued as CD/1161).

- CD/CW/WP.427, dated 7 August 1992, presented by the Chairman of the Ad Hoc Committee on Chemical Weapons, entitled 'Amendments to CD/CW/WP.400/Rev.1'.

- CD/CW/WP.428 (also issued as CD/1168).

- CD/CW/WP.429, dated 14 August 1992, submitted by the delegation of The Netherlands, entitled 'Workshop on chemical weapons for potential inspectors to the Organization for the Prohibition of Chemical Weapons (OPCW), Rijswijk, The Netherlands (16-24 June 1992)'.

- CD/CW/WP.430, dated 14 August 1992, submitted by the delegation of The Netherlands, entitled 'Verification of non-production of chemical warfare agents'.

- CD/CW/WP.431, dated 21 August 1992, submitted by the delegation of Mexico, entitled 'Working paper containing the statement of the delegation of Mexico at the meeting of the Ad Hoc Committee on Chemical Weapons to consider document CD/CW/WP.400/Rev.2'.

- CD/CW/WP.432, dated 21 August 1992, submitted by the delegation of Cuba, entitled 'Comments on the draft Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, as contained in document CD/CW/WP.400/Rev.2'.

- CD/CW/WP.433, dated 21 August 1992, entitled 'Statement by Ambassador Ahmad Kamal, Permanent Representative of Pakistan, before the Ad Hoc Committee on Chemical Weapons on 21 August 1992'.

- CD/CW/WP.434, dated 21 August 1992, entitled 'Statement of H.E. Ambassador Dr. Mounir Zahran, Permanent Representative of Egypt, before the Ad Hoc Committee on Chemical Weapons of the Conference on Disarmament on 21 August 1992'.

- CD/CW/WP.435, dated 21 August 1992, entitled 'Statement by H.E. Ambassador Sirous Nasseri on the position of the Islamic Republic of Iran on the Chemical Weapons Draft Convention at the Ad Hoc Committee on Chemical Weapons on 21 August 1992'.

- CD/CW/WP.436, dated 24 August 1992, entitled 'Draft Report of the Ad Hoc Committee on Chemical Weapons to the Conference on Disarmament'.

- CD/CW/WP.437 (also issued as CD/1169).

- CD/CW/WP.438, dated 24 August 1992, entitled 'Statement made by Ambassador Stephen J. Ledogar of the United States of America at the Ad Hoc Committee on Chemical Weapons on 24 August 1992'.

- CD/CW/WP.439, dated 26 August 1992, entitled 'Statement made by the Representative of Ethiopia at the Ad Hoc Committee on Chemical Weapons on 26 August 1992'.

- CD/CW/WP.440, dated 26 August 1992, entitled 'Statement made by the Representative of Peru at the Ad Hoc Committee on 26 August 1992'.

- CD/CW/WP.441, dated 26 August 1992, entitled 'Statement made by Ambassador Gérard Errera of France at the Ad Hoc Committee on 26 August 1992'.

"IV. SUBSTANTIVE WORK DURING THE 1992 SESSION

"7. In accordance with its mandate, the Ad Hoc Committee continued, and further intensified, negotiations on the draft Convention with a view to achieving final agreement during 1992. In so doing, it utilized Appendices I and II of CD/1116, as well as other proposals presented by the Chairman of the Committee, the Chairman of the Working Group, Friends of the Chair and by delegations.

"8. In discharging its mandate, the Ad Hoc Committee decided at the outset to establish the following negotiating framework:

"(a) Working Group on verification in the chemical industry

Chairman: Mr. Ron Morris, Australia
Deputy: Mr. Takuji Hanatani, Japan

- Completion of Article VI and its Annexes, as well as the relevant portions of the Protocol on Inspection Procedures, in particular:
    - Finalization of the verification regime for Schedule 2 facilities.
    - Determination of the scope and the contents of declarations under Article VI.
    - Determination of the scope of on-site verification measures.
    - Procedure for selecting declared facilities for on-site verification measures.
    - Procedures for the conduct of inspections/on-site verification measures.

"(b) Friend of the Chair on legal and organizational issues

Mr. Anil Wadhwa, India
Deputy: Mrs. Magda Bauta Solés, Cuba

- Jurisdiction or Control.
- Peaceful settlement of disputes.
- Amendments.
- Reservations.
- Financing of the Organization.
- Preparatory Commission.
- Other legal and organizational issues.

"(c) Friend of the Chair on Article XI

Mr. José Eduardo M. Felicio, Brazil
Deputy: Mr. Rafael Grossi, Argentina

- Economic and technological cooperation in the field of peaceful uses of chemical products.
- Trade relations among States Parties to the Convention.
- Trade relations between States Parties and non-States Parties to the Convention.

"(d) Friend of the Chair on technical issues

Dr. Graham H. Cooper, United Kingdom of Great Britain and Northern Ireland
Deputy: Dr. Mervin C. Hamblin, Canada

- Schedules.
- Thresholds for chemicals listed in Schedule 2 B.
- Guidelines.
- Definition of chemical weapons (Article II).
- Low concentrations/captive use.
- Declarations under Article III, paragraph 1 (c).

"(e) Friend of the Chair on old and abandoned chemical weapons

Ambassador Soemadi D.M. Brotodiningrat, Indonesia

"(f) Friend of the Chair on the Seat of the Organization

Ambassador Ahmad Kamal, Pakistan

"(g) Friend of the Chair on the Executive Council: composition, procedure and decision-making

Ambassador Tibor Tóth, Hungary
Deputy: Mr. Sylwin Gizowski, Poland

"9. The Chairman of the Ad Hoc Committee himself conducted the negotiations on the issue of challenge inspections (Article IX).

"10. Subsequently, Mr. Pierre Canonne of France and Dr. Amir Saghafinia of the Islamic Republic of Iran were appointed Friends of the Chair on the issue of destruction of chemical weapons and chemical weapon production facilities.

"11. It was also agreed to set up, under the Chairmanship of Ambassador Serguei B. Batsanov of the Russian Federation, a group entrusted with the task of preparing for the final editing and drafting of the text of the Convention. The composition of the group was as follows: Mr. Hu Xiaodi (China); Dr. Vladimir Gaspar (Czech and Slovak Federal Republic); Dr. Hesham Khalil (Egypt); Mr. Bertrand Besançenot (France); Mr. Omar Zniber (Morocco); Dr. Félix Calderón (Peru); and Mr. John J. Rankin (United Kingdom of Great Britain and Northern Ireland).

"12. Based on the results achieved in the negotiations during the first part of the annual session, the Chairman of the Ad Hoc Committee presented, on 18 May 1992, a working paper for the final phase of the negotiations on the Convention (CD/CW/WP.400) which contained the non-controversial elements of CD/1116 in a re-organized and refined form, as well as draft solutions to the controversial issues provided by the Chairman of the Committee, the Working Group Chairman and the Friends of the Chair.

"13. On 9 June 1992, in order to meet the special challenges of the decisive phase reached in the negotiations, the Committee agreed to the Chairman's proposal to establish a new negotiating framework for the remainder of the second part of the session. Under this new structure:

- Ambassador Michael Weston of the United Kingdom of Great Britain and Northern Ireland was entrusted with the task of conducting negotiations on Article IX, with Ambassador Ahmad Kamal of Pakistan and Ambassador Gérard Errera of France as main advocates for this issue;

- Ambassador Abdelhamid Semichi of Algeria was entrusted with the task of conducting negotiations on Article XI, with Ambassador Prakash Shah of India and Ambassador Stephen J. Ledogar of the United States of America as main advocates for this issue;

- Ambassador Carl-Magnus Hyltenius of Sweden was entrusted with the task of conducting negotiations on Article VI, with Ambassador Sirous Nasseri of the Islamic Republic of Iran and Ambassador Henrik Wagenmakers of The Netherlands as main advocates for this issue;

- Ambassador Paul O'Sullivan of Australia was entrusted with the task of conducting negotiations on Articles I and II, with Ambassador Mounir Zahran of Egypt and Ambassador Gerald Shannon of Canada as main advocates for this issue;

- Ambassador Soemadi D.M. Brotodiningrat of Indonesia was entrusted with the task of conducting negotiations on old and abandoned chemical weapons, with Ambassador Hou Zhitong of China and Ambassador Yoshitomo Tanaka of Japan as main advocates for this issue;

- Ambassador García Moritán of Argentina was entrusted with the task of conducting negotiations on Articles IV and V, with Mr. Serguei Kisselev of the Russian Federation and Dr. Robert Mikulak of the United States of America as main advocates for these issues;

- Ambassador Tibor Tóth of Hungary was entrusted with the task of conducting negotiations on the Executive Council, with Ambassador W. Rasaputram of Sri Lanka, Ambassador Emeka Ayo Azikiwe of Nigeria, Ambassador Andrea Negrotto Cambiaso of Italy, Ambassador Todor Dichev of Bulgaria and Dr. Félix Calderón of Peru as main advocates for this issue;

- Ambassador Paul O'Sullivan of Australia was also entrusted with the task of conducting negotiations on Legal and "non-controversial" issues, with Mrs. Magda Bauta Solés of Cuba and Mr. Sylwin Gizowski of Poland as main advocates for these topics.

"14. Following the presentation of the reports on the negotiations undertaken within this framework, the Chairman of the Ad Hoc Committee presented a text of the draft Convention (CD/CW/WP.400/Rev.1) on 22 June 1992 which incorporated the agreements reached during these negotiations as well as proposals for solutions to outstanding issues on which final consensus remained elusive.

"15. It was agreed that this text of the draft Convention would be considered in capitals during the recess with a view to finalizing the Convention during the third part of the session.

"16. Negotiations on issues still outstanding were resumed in the framework of the Ad Hoc Committee and open-ended consultations during the third part of the session. As a result of these negotiations, the Chairman of the Ad Hoc Committee presented document CD/CW/WP.400/Rev.2, containing the revised text of the Draft Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction.

"17. When presenting document CD/CW/WP.400/Rev.2, the Chairman of the Ad Hoc Committee recalled that General Assembly Resolution 46/35 C, in its pertinent paragraphs, reads as follows:

> 'The General Assembly,
>
> 4. Strongly urges the Conference on Disarmament, as a matter of the highest priority, to resolve in the forthcoming months outstanding issues so as to achieve a final agreement during its 1992 session;
>
> 5. Requests the Conference on Disarmament to report to the General Assembly at its forty-seventh session on the results of its negotiations.'

The Chairman pointed out that the result of the negotiations was document CD/CW/WP.400/Rev.2 containing the draft Chemical Weapons Convention. He emphasized that the draft Convention had to be looked upon as a whole and that only by doing so could the overall balance of rights and obligations, of benefits and costs be evaluated and appreciated. He illustrated this point by commenting on six areas constituting the overall balance of the draft Convention:

- The comprehensive scope of general obligations set forth in Article I and supplemented by the Preamble spelled out a total ban on chemical weapons and banned all conceivable actions in contravention to the object and purpose of the Convention. These obligations were bearable because they enhanced the security of all and because they were absolutely non-discriminatory. Each State Party had to meet them on an equal basis. In situations where the basic obligations had not been respected, safeguards were built into the Convention through provisions for assistance and protection against chemical weapons and through measures to ensure compliance. This was one of the basic balances to be found in the Convention.

- Another basic balance was the equilibrium between credible verification and the protection of national security interests. On the one hand, the provisions in the Convention provided sufficient deterrence against any potential violator to prevent violations. On the other hand, if a suspicion arose it could be transformed from a bilateral concern (a request for a challenge inspection) into a multilateral task to verify whether a violation had taken place or not. Verification procedures in themselves were balanced again; if the concern about possible non-compliance was pursued, verification could take place without interfering with national security concerns not related to the Convention so that there was an in-built balance to secure individual State Party rights versus multilateral obligations.

- A third example was verification in the chemical industry where, in a routine manner, checks were to be carried out somewhat more intensively where it seemed necessary, less intensively where the risk was lower. Since verification was more reliable and comforting than just confidence in compliance, the Committee had worked very hard over the years to develop the verification regime for the chemical industry. This regime was balanced by the undertaking of States Parties to review restrictive measures in the field of international cooperation with chemical products with the aim of removing such measures and restrictions for the benefit of States Parties acting in full compliance with their obligations under the Convention. In this regard, there was a careful and delicate equilibrium between the interests of industrial States which would have to bear the bulk of verification and the interests of developing States whose interest in increased cooperation was recognized.

- A fourth basic balance was to be found in the provision on the composition of the Executive Council. This balance was possibly not to the happiness of every delegation, but it existed to the extent that everybody was equally unhappy with it. The majority of countries in the Executive Council rightly came from the developing world because they represented the overall majority of countries and had an important role to play in this like in all international bodies. The minority of industrialized countries, in turn, had the balancing benefit of so-called industrial seats. Again, it had been tried to find a balance between the interests which exist not only within different areas and regions, but also on a global basis in a north-south, in an east-west and in a political sense.

- A fifth example was the relationship between possessors and non-possessors of chemical weapons. Possessors were obliged to destroy not only their chemical weapons but also their chemical weapons production facilities within a period of ten years. Should they, in exceptional cases, for technological, financial, ecological or other reasons, not be in a position to do so, they would automatically be in violation of the Convention, if no provision for exceptions had been built into it. Therefore, the Convention contained provisions for a limited extension of that period at the cost of additional verification, more inspections, more openness and transparency on the part of the particular State Party benefiting from an extension.

- A sixth basic balance was to be found between national and multinational costs and benefits flowing from the Convention. States Parties had to make declarations, had to adopt some general measure of openness, had to open their chemical industries, had to accept challenge inspections, and had to bear costs. Multilaterally, they gained in terms of security, confidence, and good neighbourhood; they also gained the prospect of worldwide free and prosperous trade in chemical products under the provisions of the Convention.

The Chairman of the Ad Hoc Committee continued by stating that he did not want to elaborate on the negative aspects one had to envisage if there was no Chemical Weapons Convention. Everybody could look at the other side of the coin: less security, less trade, more restrictions and a far worse world since everybody had to fear proliferation of chemical weapons. The Chairman expressed his conviction that delegations had all reason to be proud of the results of the negotiations which the Committee had achieved and which it had to report through the Conference on Disarmament to the General Assembly. He concluded by calling upon delegations to protect and promote the draft Convention.

"18. During the consideration of the draft Convention, as contained in document CD/CW/WP.400/Rev.2, some delegations expressed positions which they wished to be included in the report. These positions follow in paragraphs 19 to 34 below:

"19. The delegation of Mexico made the following statement:

> 'The Government of Mexico welcomes the fact that the Conference on Disarmament at last has a draft convention on the elimination of chemical weapons. After two decades of negotiations we have before us a draft which has secured extensive support among the members of the Conference. This is, of course, a compromise text, and hence some of its provisions are far from being wholly satisfactory. Nevertheless, the Government of Mexico has reached the conclusion that the draft should be approved by the Conference and subsequently by the General Assembly in the course of this year. Delaying its approval could lead to unforeseen consequences which would jeopardize what has already been achieved. And indeed a great deal has been achieved, since the international community is on the

point of agreeing to the complete, supervised elimination of a category of weapons of mass destruction which, despite the restrictions on their use that we and other States Parties agreed to in the Geneva Protocol of 1925, have been used in a number of international and domestic armed conflicts.

'There is no doubt that any multilateral negotiating process has its ups and downs, especially when it is as long as this one has been. However, the wish to conclude the negotiations by an arbitrarily fixed date placed us in unusual situations. Starting with the second version of working paper 400, the real negotiations were broken off and the Committee began to mark time in order to fit in with its timetable.

'As far as riot control agents are concerned, it is to be regretted that the proposed amendment concerning the definition of activities not prohibited under the Convention was not freely considered in the Ad Hoc Committee, since we consider it important that all the Committee's members should be aware of the reasons for its rejection. Such an open discussion of the matter would have pointed to the source of opposition to the proposal, which we are convinced enjoyed extensive support.

'On 7 August there was no opposition to the Chairman's decision linking a proposal concerning the decision-making process in the Executive Council with matters completely irrelevant to the subject. We all know the history of the negotiations on challenge inspections. We also know how difficult it was for some delegations to accept even the smallest change in the text of Article IX or the corresponding part of the Verification Annex. Nevertheless, it did not seem very logical that deletion of the words "be under the obligation" should be tied to the retention, unchanged, of the provision concerning the decision-making process in the Executive Council.

'As we have already pointed out in the Conference plenary, as regards the issue of the decision-making machinery in the Executive Council, the Government of Mexico finds it strange that a majority of two-thirds of all the members should be required to decide whether a matter is one of substance. In other multilateral fora and instruments, such decisions are taken by a simple majority. We would have preferred to entrust the Preparatory Commission with the task of drawing up this provision in the draft rules of procedure of the Executive Council, for approval by the Conference of the States Parties.'

"20. The delegation of Cuba made the following statement:

'First of all I wish to express our gratitude for your outstanding chairmanship of the Ad Hoc Committee on Chemical Weapons, which has contributed effectively to the possibility of concluding our work on the Chemical Weapons Convention at an extremely delicate and complex juncture in the negotiation process. We also wish to express our gratitude to the distinguished and energetic group of advisers and to the efficient and dedicated team from the secretariat.

'I wish to reaffirm at this session the statement I made one year ago in the Conference on Disarmament that Cuba does not possess chemical weapons.

'The Government of Cuba, which has for years been following closely the work of this Committee and taking an active part in the negotiation process, recognizes the importance of the agreement achieved in the draft Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (CD/CW/WP.400/Rev.2). This text reflects the effort of a group of countries, including our own, to arrive at a convention that eliminates this category of weapons from the arsenals of a number of States, which covers the destruction of facilities for the production of such weapons, and which also includes a control and verification regime that prevents such weapons from being manufactured by those who possess the industrial and economic capacity for that purpose. We nevertheless regret that it has not been possible to include more appropriately points which are of great importance for the developing countries, such as the prohibition of the use of herbicides as a method of warfare. In this connection, our delegation hopes that, during the meetings of the Review Conference of the Parties to the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques, which is to be held in this city in September, a definitive solution to this question will be discussed and agreed on.

'This morning we handed to the secretariat, for distribution as a working paper of this Committee, a text entitled: "Observations of Cuba on the draft Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction" (CD/CW/WP.400/Rev.2). This paper contains some of the opinions expressed by my delegation during the negotiations and in the statement which it made on 30 July last in the plenary Conference on Disarmament.

'I request that the symbol of this working paper should be reflected in the report which this Committee is to sub[illegible]t to the Conference on Disarmament and which the Conference, in turn, is to submit to the General Assembly of the United Nations at its forty-seventh session.

'Although the draft Convention which you are proposing to us today does not reflect certain questions in the manner which Cuba would have wished, we recognize that it is a compromise text which has won support among the members of this Conference and, I repeat, although some provisions are not fully satisfactory, my Government has taken the decision not to break the consensus that this text should be sent by the Conference on Disarmament to the General Assembly of the United Nations this year.

'There is no doubt that postponement of the approval of this text in the current circumstances of unilateral hegemony in the United Nations system could have unforeseen adverse consequences for what has already been achieved in the area of the total elimination and supervision of the destruction of weapons of this type.

'Although I will not go into great detail concerning opinions already expressed, I should like to reiterate my country's opinion concerning a matter which we consider to be of extreme importance and which relates to the fact that, for all practical purposes of the implementation of the future Convention, due consideration will have to be given to the situation which is created for Cuba by the presence at Guantanamo of the naval base which the United States maintains in Cuban territory usurped against the express will of our people and Government, and the consequences that derive from this fact.

'I should not like to conclude my comments without expressing our dissatisfaction at the way in which the meetings of this Committee developed during the final stage of its work. We regret that the exchanges of views which we held between 20 July and 7 August were not marked by the same willingness to negotiate on the part of all delegations, to the detriment of results that might have been more satisfactory for everyone.

'We hope very sincerely that the negotiating efforts on the important matters which the Conference on Disarmament has before it will end, in accordance with the priorities established, in a more constructive, open and less hurried manner during their final stage.'

"21. The delegation of Pakistan made the following statement:

'I have been instructed by my Government to express our serious reservations on certain provisions of your draft of a Chemical Weapons Convention, as contained in document CD/CW/WP.400/Rev.2, which was tabled by you on 19 August 1992.

'Pakistan neither possesses chemical weapons nor desires to acquire them. Consequently, we have a deep and abiding interest in a comprehensive, effective and equitable treaty, which would prohibit the development, stockpiling, acquisition and use of chemical weapons and ensure the total destruction of their existing stockpiles, facilities and delivery systems. At the same time, we would not favour any partial or discriminatory approach in a treaty which has security implications. It is in this context that we have reiterated our interest in a Chemical Weapons Convention which meets our essential security interests, in the Joint Declaration signed between the Foreign Secretaries of India and Pakistan recently.

'Pakistan has, therefore, participated actively and constructively in the negotiations so as to successfully conclude a comprehensive, effective and equitable treaty. We have made concrete and constructive proposals in an effort to finalize a truly global Convention which would generate trust in its provisions and thus lead to universal adherence. Our efforts, however, have not been entirely successful, as the text that is being offered for adoption carries within it the germs of much misuse and abuse, which if left unremedied have the potential of grossly undermining confidence in the Convention. Our particular concerns on the question of misuse and abuse relate to Articles II, VI and IX.

'The definition of "chemical weapons", as contained in Article II, is extremely wide and clearly open to interpretation, thus providing a potential abuser ample opportunity to use the verification procedures under the Convention to the detriment of another State Party. This shortcoming could have been remedied had the proposal of the delegation of twelve developing countries, suggesting that the Preparatory Commission should develop definitions for the terms in question, been duly incorporated in the text itself.

'The verification procedures which constitute the backbone of the Convention are, of course, essential to provide the assurance that the obligations assumed by a State Party are being complied with. At the same time, it is obvious that the type and intrusiveness of verification to which an activity would be subjected should be determined by the element of risk which that particular activity poses for the Convention. While the importance of the verification regime for activities not prohibited under the Convention is undeniable, some provisions of the system that has finally been developed in Article VI place an unnecessary burden on the civilian chemical industry, and at the same time take on the disguise of the challenge inspection procedure. The inclusion of such concepts not only mars the intrinsic routine nature of the proposed verification activity, but also carried within it the possibility of misuse.

'The provisions of Article IX will have a central place in the proposed Convention, both as a means of providing confidence in its implementation, as well as in order to deter potential violators. However, the intrusive nature of the challenge inspection procedure is such that the possibility of misuse and abuse cannot be ruled out. It is regrettable that the system that has been developed does not contain adequate safeguards to prevent the abuse of challenge inspection procedures, and that it fails to ensure the legitimate right of States, particularly smaller States, to protect and safeguard sensitive information and installations which are not relevant to the Convention. The Executive Council's known potential to play a role in preventing misuse and abuse has not been recognized, and that body, which represents the conscience of the international community, has instead been relegated to watching the challenge inspection proceedings from the side lines.

'In addition to the potential for abuse inherent in the draft Convention, there are serious imbalances in its provisions which impact adversely on the rights and obligations of States Parties. While non-chemical weapons possessors are rightly required to give up the chemical weapons option right from the beginning, chemical weapons possessors are allowed to retain as much as 55 per cent of their chemical weapons stocks until the seventh year of the ten-year destruction period. Despite repeated efforts, the qualitative aspects of chemical weapons have been totally ignored in the order of destruction. The imbalance is further compounded by the inclusion, through a totally non-transparent procedure, of a provision allowing for a possible extension of the destruction period by an additional five years.

'Another imbalance exists in Article X where the provision of emergency assistance in the case of use or threat of use of chemical weapons is not treated with the same degree of urgency and automaticity that is applied to the launching of a challenge inspection. Much higher priority needed to be accorded to cases of use or threat of use, rather than to suspicions of possible violations of the Convention.

'Finally, the balance between deterrence on the one hand and economic and technological development on the other, has not been established in a satisfactory manner. The language of Article XI does not address the essential concern of developing countries that existing discriminatory export control mechanisms, such as the "Australia Group", should be dismantled once the Convention comes into force. This major flaw has been compounded by the inclusion of provisions relating to the transfer of Schedule 2 and Schedule 3 chemicals, which would have serious economic implications for developing countries.

'For these reasons, my delegation cannot associate itself with any recommendation concerning your Draft Text. However, we would not stand in the way of its being forwarded to the Conference on Disarmament for the latter's consideration.'

"22. The delegation of Algeria made the following statement:

'As we read it, Article II, paragraph 9 (d), referring to riot control agents for law enforcement as "purposes not prohibited under this Convention", applies solely to domestic law enforcement. The absence of the additional adjective "domestic" might, in the opinion of the Algerian delegation, afford legal grounds for activities conducted contrary to the principles of the Charter and legitimize extra-territorial use of riot control agents in law enforcement.'

"23. The delegation of Egypt made the following statement:

'Due to the fact that the negotiations on the draft Convention were long and complicated, the outcome contains some imperfections and loopholes which lead to certain apprehensions on the part of various delegations.

'Egypt has always attached great importance to the inclusion in the draft Convention of issues that it regards as vital to its national security and interests. We genuinely hoped that such concerns would have been included in the text of the draft Convention. Allow me, at this juncture, to elaborate briefly on some of these concerns that are momentous to us:

'First, Article II is among the most important Articles of this Convention since it defines chemical weapons; the core of this Convention. The wide spectrum definition includes in its interpretation the entanglement of munitions and equipment, whether they are related or not to toxic chemicals, as long as the provision of Article II comprises the word "separately" in paragraph 1. Hence, we had hoped that the proposal to leave the definition of "Munitions and devices and any equipment specifically designed for use directly in connection with the employment of chemical weapons" be elaborated by the Preparatory Commission. This concern has a bearing on Article III, due to the fact that every State Party to the Convention should be fully aware, in advance, of what it has to declare in view of the eventual destruction of chemical weapons according to the relevant provisions of the Convention.

'Second, Article VIII embodies the structure and functions of the Executive Council, its composition, procedure and decision-making. Our position has long been known to support the principle of equitable geographical distribution as the basis for a just composition of the Executive Council. We have always asked for a balance in the representation of regional groupings and we noted that the previous imbalance in the distribution of seats was partially corrected. However, the largest regional group, namely Africa, was unfortunately deleted from the rotating seat between the regional groupings of Africa, Latin America and Asia in paragraph 23 (f). Thus, Africa was left again with less than fair treatment in comparison with all other regional groupings.

'Third, Article IX is a vital instrument to the implementation of this Convention. There is general agreement that it entails high political value. Consequently, the verification mechanism provided for in Article IX should be equivalent to the legal context of that Article and the other provisions of the draft Convention. It is in the light of the importance of the verification mechanism that the Egyptian delegation has introduced a proposed safeguard against the possible abuse of this instrument. Unfortunately, it was not adequately reflected in document CD/CW/WP.400/Rev.2. It is worthwhile to note with misgivings that the powers of the Executive Council, in as far as the inspection is concerned, are less than adequate.

'Fourth, Article XI is of great consequential importance and especially to the developing countries. Needless to say, developing countries are entitled to safeguard the promotion of scientific and technological knowledge in the field of chemistry for industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes. They have the legitimate right to obtain assurances that the implementation of this Convention shall not hamper the economic and technological development of the developing States Parties to this Convention according to our proposals. The present wording of Article XI, paragraph 1, is not fully satisfactory to us as long as it leaves room for the States Parties to absorb eventual damage to their economic and technological development as a result of the implementation of the Convention. In short, we express apprehension at maintaining the term "shall avoid hampering" in the final draft.

'We have to put several questions to you and the members of the Conference on Disarmament:

'(a) How to deal with these concerns and misgivings;

'(b) How to provide assurances to comfort our concerns and apprehensions; and

'(c) How to introduce full scope security assurances to face the case of the use or threat of use of chemical weapons against a State Party to the Convention by a State non-Party or by a State Party during the transitional period and until the complete destruction of chemical weapons, indeed until we free our planet from chemical weapons and all other weapons of mass destruction?

'It is worthwhile to note that the reference to the right of a State Party to receive assistance as reflected in Article X is not enough to comfort such apprehension.

'Egypt has participated actively in the negotiations on the Chemical Weapons Convention and we hope that it would achieve universal adherence by reflecting the legitimate rights and vital interests of all States in view of our need to live in peace and security and cooperate with other members of the international community in a world free from all weapons of mass destruction.

'Having stated the above concerns, I do not object that the draft Convention would merely be transmitted to the Conference on Disarmament for consideration.'

"24. The delegation of China made the following statement:

'On 19 August 1992, the English version of the Ad Hoc Committee Chairman's Working Paper CD/CW/WP.400/Rev.2 was circulated here. In view of the importance of the Chemical Weapons Convention, the Chinese delegation will, naturally, further examine carefully the text of the draft Convention, including its Chinese version. I appreciate the untiring efforts made by you, Mr. Chairman and the German delegation in the negotiations in the Ad Hoc Committee.

'Today, I am instructed by my Government to place on record the following comment and statement of position:

'The complete prohibition and thorough destruction of all chemical weapons and their production facilities have always been the common aspiration and urgent demand of the international community and should, naturally, constitute the basic objective and purpose of negotiations of the Chemical Weapons Convention in the Ad Hoc Committee.

'As a non-chemical weapon State, victim of the scourge of foreign chemical weapons, China has always stood firmly for the early conclusion of a Chemical Weapons Convention in conformity with the above objective and purpose, so as to realize a chemical weapon-free world as soon as possible. Therefore, China has always attached great importance to, actively participated in, and made due contribution to the negotiations on the Convention. China is ready to continue to work with other countries in a joint effort to bring years of negotiations to a successful conclusion.

'On preliminary examination, your document CD/CW/WP.400/Rev.2 has improved in certain aspects upon the previous draft contained in CD/CW/WP.400/Rev.1. But, in many respects, it falls short of fully reflecting the legitimate concerns and requests of the numerous developing countries. Taken as a whole, it generally reflects the current complex situation where negotiations in the Committee have made headway but divergences still remain. The Chairman's paper contains some positive parts on which years of negotiations have culminated in consensus, which contribute to safeguarding the fundamental objective of the complete prohibition and thorough destruction of all chemical weapons. A case in point is the important provisions on the Abandoning State undertaking to destroy all the chemical weapons it has abandoned on the territories of other States. These provisions are just, reasonable and balanced. In the view of the Chinese Government, it is an essential guarantee to the realization of the fundamental objectives of the Convention for the relevant States Parties to fulfil without reservation or delay these obligations of international law which they have undertaken.

'Under Government instructions, I wish to point out again that this draft Convention has not reflected adequately the just demands and reasonable propositions of numerous developing countries, including China, and contains some serious drawbacks. For this reason, China cannot but express concern and reservations.

'In China's view, the main drawbacks of this draft Convention are, inter alia, as follows:

'(a) Its scope of verification in the chemical industry is too broad. An extremely large number of chemical facilities not relevant to chemical weapons are subject, where there is no necessity at all, to declaration and verification. The intended inclusion of facilities for nuclear and space chemistry is totally unreasonable. This will inevitably create grave difficulties for, and interference in, the chemical industry of the developing countries and adversely affect the effective verification of the chemical facilities truly relevant to the Convention;

'(b) It places undue emphasis on challenge inspection being extremely intrusive and short-noticed and ignores the danger of abuse and the necessity to prevent abuse of the right to request such inspection. This will threaten the legitimate rights and interests of the developing countries. Obviously, the procedures for such inspection also contain some unreasonable and unrealistic provisions and lack measures to ensure that security and confidential facilities not related to chemical weapons are not compromised. It goes without saying that no harm whatsoever to the major security rights and interests of sovereign States can be allowed;

'(c) Its provisions on the extension of the chemical weapons destruction period, the order of destruction and permission to convert some chemical weapons production facilities do not serve the fundamental objective of the Convention and are detrimental to the security of non-chemical weapon States;

'(d) Owing to some unjustifiable provisions in the current draft, the future Organization and its expenses will be too big, thus bearing heavily on States Parties. It is only natural that verification costs for chemical weapons and their production facilities be borne by the possessor States and that States Parties abusing the right to challenge inspection bear the costs of such inspection. But, this is not found in the draft;

'(e) Article XI on Economic and Technological Development also lacks balance. In spite of the persistent strong demand of the developing countries, this draft has not expressly provided for the removal of discriminatory restrictions on chemical trade and exchanges between States Parties;

'(f) Article II on Definition of Chemical Weapons contains ambiguities that could lead to distortion and abuse.

'China, like many other countries, feels greatly concerned that these drawbacks would adversely affect the universality and effectiveness of the Convention and be detrimental to international peace and security. It is precisely for this reason that the Chinese delegation, together with many other developing countries, put forward on numerous occasions joint constructive proposals and requested that negotiations be continued to iron out differences and remove the grave drawbacks in this draft Convention. It is regrettable that our appeals to wisdom have not met with due response. Therefore, the Chinese Government still needs to further consider whether or not China will sign this Convention.

'On instructions of the Chinese Government, the Chinese delegation requests that, in conformity with the relevant Rules of Procedure of the Conference on Disarmament, the above statement of position and reservation be placed on record and included in the annual report of the Ad Hoc Committee. Under such circumstances, should the Committee agree by consensus to submit to the Conference on Disarmament for consideration the Chairman's CD/CW/WP.400/Rev.2 as an Annex to the Committee's report, the Chinese delegation would not object.'

"25. The delegation of the Islamic Republic of Iran made the following statement:

'We are approaching a critical and decisive juncture in our multilateral efforts for the elimination of a class of weapons which were used in the past and particularly in the 1980s. For the first time in the history of disarmament and arms control, a treaty with such far-reaching objectives is being worked out. Your task has been, therefore, of great value and of immense importance to bring such an objective to fruition. Our acts here will be judged by history and generations to come. Any failure to fulfil this weighty responsibility will adversely affect the security of all in the future.

'Our people have been the latest and, hopefully, will remain the last victims of the use of chemical weapons. The anguish resulting from this use cannot escape the souls and hearts of the Iranians and, hopefully, the consciousness of the world. While people were being poisoned to death, we kept calling for decisive international reaction. Although the Geneva Protocol of 1925 was in place at that time, political expediency prevented measures warranted to stop such use. Nevertheless, the repeated use of these weapons deeply affected world public opinion and invigorated attempts to conclude a comprehensive ban on chemical weapons. We therefore may be right in the belief that no nation on this planet has been more enthusiastic than us to have such a ban through a multilateral Convention.

'In this spirit, the delegation of the Islamic Republic of Iran has actively participated in and contributed to the deliberations of the Ad Hoc Committee on Chemical Weapons and has made its utmost effort to facilitate the conclusion of a strong, verifiable, effective, solid and fool-proof Chemical Weapons Convention. We have always been and will remain a faithful proponent of such a Convention. Any view by my delegation should be evaluated in this context. We wholeheartedly support the conclusion of such a Convention which is backed not only by words but also by the sincere conviction for its universal adherence following its signature. It has always been our consistent determination to be an original signatory to such a Convention; a Convention not only agreed to, but enthusiastically embraced by all States of the world, thus giving a true meaning to its fundamental objective of universality.

'Preparing such a Convention has been entrusted to you in this final year of negotiations. All of us have been witness to the restless efforts by you and your delegation to materialize this lofty goal. During these tense and intense periods of negotiations, you kept your strong resolve and with high spirit performed your formidable job.

'We acknowledge with thanks and appreciation what you have done and what you attempted to do. However, since an evaluation of the present text was presented by the Chairman in our meeting on 19 August 1992, allow me also to offer our own assessment of CD/CW/WP.400/Rev.2:

'(a) In Article I, balance may still be questioned since the commitment not to use herbicides as a method of warfare has been excluded from the General Obligations. Herbicides have been used in the past and, in high concentration, they can affect human beings and plants. Furthermore, law enforcement agents have been permitted to be employed outside national borders. These shortcomings have adversely affected what could be an all-encompassing treaty with no loophole in its scope of obligations.

'(b) It is clear that the definition in Article II is the most fundamental part of the Convention, as the whole body of the Convention is built about, around and upon this definition. As far as the toxic chemicals and their precursors are concerned, they have been elaborated and described throughout the text and a system of verification has been envisaged to check any chemicals being used as weapons.

'Munitions, submunitions, devices and equipment which have been tagged as being chemical weapons, despite the Chairman's statement, could be clarified further. Due to time constraints, it was not possible to include any clarification or elaboration in the text of the draft Convention at this stage.

'(c) There exists unambiguous obligations in Article I for the destruction of chemical weapons and chemical weapons production facilities. However, such an obligation has been diluted in Articles IV and V by allowing the possible extension of duration of the destruction period and conversion of chemical weapons production facilities. I reiterate this position despite the fact that a member of our delegation, as the Co-chairman of the related Working Group has, in that independent capacity, and as a Friend of the Chair, contributed to finding a compromise. This new provision means that we will be living with the spectre of chemical weapons for the next two decades. This could have at least been somehow balanced by a qualitative order of destruction starting with the most lethal chemical weapons. This legitimate, significant and scientifically feasible proposal was not given necessary weight and attention in the negotiations and, as a result, States are to be left under a shadow of insecurity. The verification system for chemical weapons destruction, embodied in CD/1116, has therefore been significantly weakened.

'In addition, the new insertions have, in practice, replaced the international verification system by a bilateral verification system. If the Organization seeks to inspect chemical weapons production facilities and chemical weapons stocks, the subject will be treated under complementary verification for which all States Parties are obliged to bear the cost. Unfortunately, the addition of paragraph 17 in Article IV with the present wording creates a loophole which, in practice, I should reiterate, weakens the verification system under Article IV and its relevant Annexes.

'(d) It has been stated that a credible verification system has been balanced by guarantees against disclosure of national security information unrelated to the Convention. In the past, there was a well-defined and effective verification system based on risk assessment. The present mechanism, however, has been weakened by bringing into it almost every chemical facility which is even unrelated to the Chemical Weapons Convention; facilities which, even if diverted, will not pose a significant risk to the objectives of the Convention. This new approach will raise the costs of verification that would eventually be shouldered by the developing countries as the end-users and final consumers of such chemicals. By the time the Convention enters into force, the price of Schedule 3 chemicals will rise both for psychological reasons and the expectation of verification costs.

'Here, balance meant stringent treatment of Schedule 2 chemicals which have extremely limited commercial utility and a cost-effective and feasible system of verification of Schedule 3 chemicals. It should also be recalled that three new chemicals, with vast commercial application for everyday life, have been added to the Schedule 3 chemicals at the latest stage with no justification.

'Moreover, the verification system has not been properly balanced, as envisaged earlier, by the present provisions of Articles X and XI. Despite some encouraging statements by some countries and changes in the provisions of Article XI, it appears that, aside from the Convention, States Parties would have to rely on the faithful implementation of this Article by chemically developed countries and on their commitment to remove restrictions. Contrary to unambiguous obligations for verification, there is no equally binding and clear-cut commitment for financial contributions envisaged in Article X to render assistance in the case of use of chemical weapons. If there is no money in the so-called voluntary fund, Article X will be of no use.

'(e) On the question of composition of the Executive Council, it has been stated that all regional groups are equally unhappy. I have strong doubts that those who are to be privileged by the provision of this Article will be equally unhappy. Furthermore, each European State has more than a 20 per cent chance of being elected to the Executive Council. This chance is reduced to less than 10 per cent for an Asian State. This is certainly not a balance.

'My delegation still maintains a strong position on these points. Yet, our desire for the conclusion of the Chemical Weapons Convention, in the ultimate balance, will prevail. Discussions during the last week, which have led to a unified common understanding on Articles II, VIII and XI have been helpful. We also take note that persistent efforts are being continued in order to reach an understanding on the composition of the Executive Council within the Asian Group.

'Due to this ongoing effort, therefore, and at this stage, we are only prepared to agree that this text be transmitted to the Conference on Disarmament, along with the reservations we have just expressed, for its consideration. I must stress that our final position *vis-à-vis* the text at the Conference on Disarmament will be contingent upon the final outcome of the discussions related to Article VIII.'

"26. The delegation of the Russian Federation made the following statement:

'The text of the draft Convention on the Prohibition of Chemical Weapons as presented rests on many compromises which, naturally, bear fragments of antagonistic positions and, hence, have their internal contradictions. Moreover, not all compromise decisions are fully acceptable to us as, indeed, to many other countries. However, we would be ready to overlook many drawbacks of the draft Convention if it were not for two instances, unacceptable in principle, which make it impossible for the Government of the Russian Federation to agree to the text of the draft Convention on the Prohibition of Chemical Weapons as presented.

'First, it concerns meeting the costs of verification of storage and destruction facilities as well as of former chemical weapons production facilities (paragraph 16 of Article IV and paragraph 19 of Article V).

'The Russian Government believes that the costs of verification under Articles IV and V should be met on the basis of the United Nations scale of assessment. However, we are ready not to insist on our position being reflected now in the text of the Convention and we agree to postpone finding a solution to substantive issues for a later date. Thus, the Russian delegation has proposed to include in the text of the Convention the following language to replace existing text:

- for paragraph 16 of Article IV:

> "Each State Party shall meet the costs of destruction of chemical weapons it is obliged to destroy. The question of meeting the costs of verification of storage and destruction of these chemical weapons by the Organization will be resolved by States accepting the Convention by no later than 31 January 1993";

- for paragraph 19 of Article V:

> "Each State Party shall meet the costs of destruction of chemical weapons production facilities it is obliged to destroy. The question of meeting the costs of verification by the Organization will be resolved by States accepting the Convention by no later than 31 January 1993".

'Second, it concerns the language of the definition of specialized equipment in paragraph 5, Part I of the Annex on Implementation and Verification. Preserving this definition the way it was formulated several years ago makes it impossible to count on the viability of the Convention's provisions concerning the conversion of former chemical weapons production facilities. In this case as well we are not suggesting to record some different definition. All we want is to leave this question open in such a way that the road for Russia to the Convention be open.

'Thus, our delegation has suggested the following language for paragraph 5 of Part I of the Annex on Implementation and Verification:

> "The question of the definition of 'specialized equipment' will be resolved by States accepting the Convention by no later than 31 January 1993".

'I would like to stress that these proposals do not infringe on any aspects of the security regime under the future Convention on the Prohibition of Chemical Weapons. They concern only financial aspects and

> protection of Russian economic interests. Our estimates done by the Government show that, in case we sign the Convention with the existing provisions for meeting the costs under Articles IV and V, our total costs for this type of verification would amount to 450 million US dollars; in case the existing definition of specialized equipment remains, our economic losses from stopping the operation of existing facilities to establishing new ones would amount to 10 billion roubles annually, plus 50 billion roubles - for reconstruction of facilities. It is obvious that with such provisions the Convention on the Prohibition of Chemical Weapons stands no chance to be approved by the Government of the Russian Federation and the Supreme Soviet of the Russian Federation.'

"27. The delegation of the United Kingdom noted the statements made by delegations setting out their national positions. It did not accept that such statements had any authoritative status at the level of interpretation or otherwise and reserved its right to comment further on such statements at a later stage. This position was shared by the delegations of Argentina, Australia, Belgium, Brazil, Canada, France, Hungary, Nigeria, Peru, Sweden and Venezuela.

"28. The delegation of the United States of America made the following statement:

> 'As we have previously stated, the United States considers that, on balance, the draft Chemical Weapons Convention is acceptable. We have heard a number of delegations complain that the draft text still does not contain their preferred positions. The text also does not contain some preferred positions of the United States. Examples include certain provisions related to challenge inspection, assistance, verification of chemical industry, destruction of chemical weapons and chemical weapons production facilities, and the Executive Council. Nonetheless, we are prepared to go ahead and sign this text.
>
> 'In this connection, we have also heard some statements containing national understandings of certain provisions of the draft text. Our understanding of these provisions is that the draft text clearly speaks for itself.'

"29. The delegation of Italy made the following statement:

> 'The Draft Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, as embodied in document CD/CW/WP.400/Rev.2, is the product of time-honoured negotiations and takes into account the different views expressed by all the delegations that participated in the negotiations. It is obvious that the draft could not verbatim translate into its provisions all the detailed proposals of each delegation. However, the draft is a balanced text, whose transmission forward to the plenary of the Conference on Disarmament is supported with an equal spirit of compromise by all and reflects a broad and general consensus.

'Notwithstanding that, a number of delegations felt that their specific observations needed to be registered in their entirety in the proceedings. The majority of delegations, on the other hand, felt that such a procedure runs against the spirit in which the draft text was elaborated. Accordingly, they abstained from proceeding likewise, albeit in a number of cases nurturing neither fewer nor minor observations. Therefore, the Italian Delegation, like many others, has accepted that the Convention be transmitted to the plenary of the Conference on Disarmament, and later to the forty-seventh session of the United Nations General Assembly, without pursuing the registration of any observation on its substance.

'In these circumstances Italy feels obliged to state that national observations recorded in the Chairman's report can neither alter the compromise reached with the text transmitted to the Conference on Disarmament, nor influence in any way the provisions contained therein.'

"30. The delegation of Myanmar made the following statement:

'Allow me to express the position of my delegation on the question of the system of election to the geographical seats for the Asia Region on the Executive Council of the future Organization for the Prohibition of Chemical Weapons for the first 10 years.

'My delegation attaches great importance to this principle of rotation which is duly reflected in Article VIII of the present text contained in CD/CW/WP.400/Rev.2. Here I am speaking on the basis of principle and principle alone.

'When we proposed this principle of rotation during the phase of negotiations we had in mind that a State Party to the Chemical Weapons Convention should not only have the right to serve on the Executive Council but also should have a fair chance to serve on the Executive Council. Accordingly, my delegation will have serious difficulties to go along with any proposal that would erode the principle of rotation for the geographical seats for the Asia Region and also which would deny a fair chance to a State Party.'

"31. The delegation of Sri Lanka made the following statement:

'My delegation wishes to make the following observations with regard to the composition of the Executive Council membership within the Asian Group.

'At present there are 42 member states in the Asian Group. This excludes the Central Asian States who joined the United Nations recently. The total number of seats allocated to the Asian Group in the Executive Council is 9, with one floating seat in every 2 years. Of these 9 1/2 seats 4 seats shall, as a rule, be allocated to the countries with the most significant national chemical industry, taking into account other regional factors as well, thus leaving 5 1/2 seats for the remaining 38 States.

'If we are to designate a seat from among these 5 1/2 seats to a particular State Party for an extended period, that procedure will run contrary to the principle of designation of seats stipulated in the draft Convention.

'In addition, my delegation is of the view that such an arrangement will create a precedent for other countries to make similar requests. Accommodation of such requests will further reduce the limited opportunities available to the remaining large number of states in the region.

'However, my delegation has no objection to such a request being considered, provided that we can arrive at an understanding or establish a principle on the basis of which such a request could be entertained. My delegation holds the view that it is desirable if a matter of this nature is discussed and an understanding reached or a principle established by the Asian Group, so that such an understanding, or a principle will not be contested by future States Parties from the region, the majority of which are not members of the Conference on Disarmament.'

"32. The delegation of France made the following statement:

'We believe that the text of the draft Convention, contained in document CD/CW/WP.400/Rev.2, represents a delicate equilibrium balancing many interests, and that the results achieved during the very intensive concluding rounds of negotiations are to be commended for the following reasons:

'A. The Chemical Weapons Convention will entail substantial progress for international security.

'Indeed, this draft Convention is the first multilateral disarmament agreement with effective verification provisions banning a whole class of weapons of mass destruction:

- it prohibits not only the production, but also the acquisition, stockpiling, transfer, use or military preparation for use of chemical weapons as well as assistance to anyone engaged in activities prohibited under the Convention;
- the prohibition encompasses not only the chemical agents as such, but also their means of delivery and any device designed for the use of chemical weapons;
- any State Party having chemical weapons or having abandoned chemical weapons on other States Parties' territories is under the obligation to destroy such weapons, as well as any production facility, in accordance with the relevant provisions of this draft Convention.

'Thus the ban is really a comprehensive one.

'Moreover, this draft Convention introduces an unprecedented verification regime that will provide a deterrent against covert chemical weapons development programmes.

'Apart from the provisions on the verification of the destruction of chemical weapons and inspections in chemical industry, the Chemical Weapons Convention contains a major innovative combination of provisions:

- it introduces for the first time the concept of challenge inspection in a worldwide agreement;

- such inspections can be carried out not only in declared facilities but also in undeclared facilities; and

- these inspections will be conducted by international inspection teams provided by the future Organization set up by the Convention.

'This unprecedented system of verification could well become a reference for other multilateral disarmament agreements or for the strengthening of existing verification regimes.

'By establishing an internationally agreed norm and granting the international community the practical means of enforcing it, the Chemical Weapons Convention constitutes a major step in the collective endeavour to eradicate weapons of mass destruction.

'France supports the assessment of the Chairman of the Ad Hoc Committee on Chemical Weapons to the effect that this draft Convention contains the proper balance between fundamental requirements:

'(i) It provides for balance between the need for credible verification and safeguarding national interests.

'It reconciles the possibility of inspections anywhere with the need to protect security interests:

- it grants the Organization, through on-site inspections, the practical means of detecting non-compliance with the Convention. Therefore it has a real deterrent value vis-à-vis possible violators. The challenge verification regime allows a bilateral concern about possible non-compliance to trigger a multilateral inspection carried out by the Technical Secretariat and a multinational inspection team dispatched by the Organization.

- at the same time, the draft Convention contains a set of provisions (on time-frames, managed access to the inspected site, measures against abuse) allowing States Parties to protect sensitive facilities or information unrelated to chemical weapons.

'It also takes into account the need to safeguard economic and commercial interests.

'Under the draft Convention, States Parties must declare their chemical production facilities capable of producing chemical weapons. Various risk levels are defined for each agent and different levels of verification are applied to each category. Thus, capable facilities are covered in a sufficiently broad sense.

'But the draft Convention ensures that world chemical industry would not be subject to an unnecessarily intrusive or bureaucratic system of inspections.

'(ii) It provides a proper balance between rights and obligations for all States Parties.

'Because of their chemical industry capacities, the most industrialized countries will bear most of the weight of verification in industry. However, due to the concept of capable facilities, all States Parties having some chemical industry will be affected by verification at an appropriate time.

'Similarly, it is natural that those countries subject to the constraints of verification and complying fully with their obligations should expect to benefit from relaxation of the measures taken by other States Parties to prevent chemical weapons proliferation. This was recognized by the members of the 'Australia Group' in the statement recently made in the Conference on Disarmament (CD/1164).

'The composition of the Executive Council established by the draft Convention has been designed to ensure equitable distribution between the regions of the world. In determining the number of seats for each region, due account has been taken of the relative importance of chemical industry capacities of States Parties. This industrial criterion is expressed in a sufficiently flexible manner so as to allow possible regional internal re-arrangements or the necessary future adjustments.

'The draft Convention provides for the obligation of any State Party possessing chemical weapons or chemical weapons production facilities to destroy all of them within 10 years after the entry into force of the Convention. At the same time, it addresses the technological or financial difficulties which some States Parties could face in the destruction of their arsenals. The draft Convention thus provides for the exceptional possibility to modify or extend the 10-year destruction period for a State Party, but under conditions of strengthened verification by the international community. The same situation applies with regard to the exceptional conversion of chemical weapons production facilities to civil uses.

'B. France shares the view expressed by the Chairman of the Ad Hoc Committee on Chemical Weapons that there was no realistic possibility of producing a better text through further negotiations. It strongly agrees about the negative consequences, for the international community as a whole, of failure to agree on this draft Convention now.

'Such a situation would condone existing clandestine chemical weapons development programmes and encourage further spread of chemical weapons, thus affecting the security of all States, particularly the least developed ones and the likely consequence would be further use of chemical weapons.

'The corollary of such a prospect would be the necessary strengthening of unilateral non-proliferation regimes, including formalization of these regimes. Inevitably, there would be increased obstacles to trade and transfers of technology penalizing those countries abiding by their commitments, particularly developing countries.

'In the end, the absence of this Convention would encourage the application of unilateral actions, including the use of force, instead of a multilateral action which would be to the benefit of the States complying with the common norm.

'It is for these reasons that France is of the view that the Draft Convention, as an historic achievement of the Conference on Disarmament, should now be transmitted to the United Nations General Assembly for commendation and opened for signature at an early date.'

This position was shared by the delegations of Australia, Belgium, Bulgaria, Canada, Germany, Hungary, Italy, Japan, Mongolia, the Netherlands, Nigeria, Poland, Romania, Sweden, the United Kingdom of Great Britain and Northern Ireland, the United States of America and Zaire.

"33. The delegation of Argentina, also on behalf of the delegation of Brazil, made the following statement:

'Brazil and Argentina consider the draft Convention as contained in document CD/CW/WP.400/Rev.2 to be the auspicious outcome of a long and complex negotiating process which this year was fortunate enough to go full steam ahead. The Convention strikes, in our view, a delicate and favourable balance between security requirements and the legitimate concerns of the chemical industry.

'Its innovative verification arrangements will mark a watershed in the history of multilateral disarmament. Their scope and characteristics will doubtless be taken as a reference for future agreements and for tightening up agreements already in existence.

'The application of this verification system will help to make export control schemes for militarily significant technology gradually more multilateral.

'Lastly, the favourable attributes of this draft Convention provide unbeatable grounds for universal accession and swift entry into force.

'The delegations of Brazil and Argentina believe the draft Convention should be warmly endorsed by the Conference on Disarmament so that it can secure at the forty-seventh session of the United Nations General Assembly the speedy approval a text like this deserves'.

"34. The delegation of Peru made the following statement:

'First of all, my delegation would like to associate itself with much of the statement just made by the Ambassador of France on behalf of his country and other delegations.

'The draft Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction constitutes a major contribution to the strengthening of international peace and security.

'The Convention, the first of its kind in its scope and complexity, negotiations on which have finally been concluded, constitutes an extensive exercise in cooperation and solidarity among the States Parties for the purpose of achieving the elimination of these horrific weapons of mass destruction once and for all. It builds upon the precedent set by the 1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction. And bright prospects are undoubtedly opening up for the realization of nuclear disarmament, including the complete prohibition of nuclear tests, in the not too distant future.

'Although Peru's decision to be an original signatory of the Convention is well known, I should like to take this opportunity to place on record my country's full support for the draft Convention contained in document CD/CW/WP.400/Rev.2. It is no secret to anyone that the draft Convention contains the minimum that is acceptable to the vast majority of delegations. But it is this very common denominator which made it possible for the Ad Hoc Committee to accomplish in full the task entrusted to it.

'Peru's expectations were greater, as no doubt were those of other member States of this Conference. Nevertheless, the draft Convention embodies the concessions that the member States had to make to one another, guided by the sole objective of eliminating chemical weapons from the face of the Earth.

'My delegation could make many observations on the draft Convention at the end of the negotiating process. For the moment I will restrict myself to making only a few such observations, relating to some aspects of its content. In the first place, it might perhaps have been desirable to update the preamble, which dates for the most part from 1985, in order to bring it into line with the scope of the general obligations set out in Article I.

'Second, we consider that the definitions and criteria in Article II are consistent with the prohibitions appearing in Article I. Even though the definition of chemical weapons displays a degree of latitude, we proceed from the assumption that good faith on the part of the States Parties will prevent possible combinations of circumstances from being readily confused with an alleged intention to flout obligations entered into. In any case, in the interests of safety it would appear preferable to have a degree of flexibility in interpretation rather than a narrow definition which might be overtaken in the future by ceaseless technological development, particularly in the field of non-lethal chemicals.

'Third, it is true that if law enforcement is not referred to as "domestic", as in Article II, paragraph 9 (d), this might give rise to far-fetched interpretations of what the negotiators intended. Consequently, my delegation considers it appropriate to point out that, as far as Peru is concerned, law enforcement is within the competence of each geographical State, except for activities that might be carried out by United Nations peace-keeping forces.

'Fourth, in Peru's view the good faith of the States possessing chemical weapons will be judged by the way in which they implement their general plans for the destruction of their stockpiles; it would be desirable for the destruction of chemical weapons to be effected more rapidly, except in the cases specified in Part IV (A), paragraph 21, of the Annex on Implementation and Verification. We continue to regard it as regrettable that States will be under the obligation to destroy only 45 per cent of their chemical weapons by the end of the seventh year of the destruction process, especially since this appears to prejudge the extension of the destruction period for five more years, as referred to in Part IV (A), paragraph 24. This is why Peru attaches particular importance to the principle set forth in Article IV, paragraph 16, regarding the obligation of a State possessing chemical weapons also to meet the costs of verification of storage and destruction of such chemical weapons, unless the Executive Council decides otherwise.

'Fifth, the provisions of Article VI, in the view of experts, restrict the scope of verification of world chemical industry. Of course, it was in no one's mind to cover the whole of this dynamic industrial sector, since verification would have been unmanageable and exorbitantly costly. Yet it was thought to be possible to cover more than 30 per cent of "capable facilities". In the end, the objectives of the Convention proved to be more modest, either because thresholds were raised or because it focused solely on "PSF facilities".

'Sixth, the agreed composition of the Executive council was not the happiest solution for Latin America and the Caribbean. We accepted the agreement as the best way of stimulating greater involvement, particularly by Africa, among the original signatories. Yet at the same time we attach particular importance to Article VIII, paragraph 25, under which, as soon as the destruction of chemical weapons and production facilities has been completed, the Conference may, at the request of a majority of the members of the Executive Council, review the composition of the Council, taking into account developments related to the principles specified in paragraph 23.

'Seventh, it is worth highlighting the provisions contained in Article IX relating to challenge inspections. This was not, of course, what we originally sought, but we accepted it as a compromise formula. There are no precedents for this kind of verification, and we believe that this constitutes one of the greatest contributions that the Conference on Disarmament has made in the area of multilateral disarmament negotiations.

'Eighth, Peru continues to believe that the amendment procedure set out in Article XV suffers from the shortcoming that it makes the new Convention very rigid, to the point that it might become fossilized through the actions of a single State Party which either opposed an amendment or, less dramatically, merely decided to refrain from ratifying it, after having voted in favour.

'Ninth, Peru welcomes the important statement made by the Ambassador of Australia, Paul O'Sullivan, on behalf of the Australia Group, whereby the member countries of the Group made a commitment to seek to eliminate restrictions on transfers among the States Parties. For the same reasons, my delegation welcomes the inclusion in Parts VII and VIII of the Verification Annex of important provisions designed to monitor transfers to States which are not Parties to the Convention.

'Lastly, it is to be hoped that the ban on making reservations to the various Articles of the Convention will not lead to the unhealthy practice of interpretative declarations. Under the Vienna Convention on the Law of Treaties, such declarations must be regarded to all intents and purposes as reservations, and they therefore fall under the ban.'

"35. Also during the consideration of the draft Convention as contained in document CD/CW/WP.400/Rev.2, the Chairman, in order to facilitate the understanding of some provisions of the draft Convention, provided the explanations following in paragraphs 36 to 40 below which, in his view, answer some of the concerns reflected in paragraphs 19 to 34 above.

"36. With regard to Article II: The definition of the term 'chemical weapons' in Article II is formulated broadly to cover not only toxic chemicals and their precursors, but also specifically-designed means of delivery. The term 'munitions' refers to items that utilize directly or indirectly an explosive to disseminate a toxic chemical on the battlefield. The term 'devices' refers to items that use non-explosive means to disseminate a toxic chemical on the battlefield. The term 'equipment' refers to, inter alia, items that are part of a chemical weapons delivery system but do not actually contain toxic chemicals or precursors. It does not refer to general purpose delivery systems that are common in all modern armed forces that can be used to deliver different types of ammunition containing, inter alia, conventional explosives, but which do not contain any special features designed specifically for the delivery of chemical munitions or devices.

"37. With regard to Articles IV and V: Articles IV (paragraph 16) and V (paragraph 19) set forth the general rule that a State Party shall meet the costs of verification under these Articles unless the Executive Council decides otherwise. Except for the particular case of bilateral or multilateral verification agreements, no conditions and criteria are specified under which the Executive Council may take a decision differing from the general rule. Since the Preparatory Commission will be in any case engaged in preparation of the budgetary proposals to the Organization in accordance with paragraph 10 of the Text on the Establishment of a Preparatory Commission, it is understood that it will have to take up these questions as well.

"38. With regard to Article VIII: The criteria for membership in the Executive Council, as specified in paragraph 23 of Article VIII, are intended to ensure that the membership of the Executive Council is broadly representative of the membership of the treaty. Members of each regional group will decide among themselves on the designation of Executive Council members from their region, taking into account the criteria specified in the Convention. The regional groups shall also take into account regional factors in designating these members. By using a balanced approach, regional groups are given some flexibility in designating seats within the groups.

"39. With regard to Article IX: The provisions on challenge inspections foresee that the request for a challenge inspection, including information on the location of the inspection site, shall be transmitted to the inspected State Party not less than twelve hours prior to the planned arrival of the inspection team at the point of entry (cf. Article IX, paragraph 15; Verification Annex, Part X, paragraphs 6, 10 and 11).

"These provisions have to be seen in the context of the over-all timespan elapsing between the point in time when the inspected State Party is informed on the location of the inspection site and the point in time when the inspection team may actually enter the site. This timespan might last as long as five days. Given this relatively lengthy timespan which might pass before the inspection starts, it proved impossible to add anywhere to the "timelines" in case of a challenge inspection since many delegations held the view that any prolongation would put into doubt the effectiveness of this instrument of verification.

"However, the provisions on the twelve hours notification time referred to above are not intended to place the inspected State Party in a position where, for practical reasons, it might become impossible to fulfil the obligations under the Convention. Therefore, the procedural provisions on carrying out a challenge inspection have been drafted in such a way as to allow for up to 36 hours passing between the inspection team's arrival at the point of entry and its arrival at the inspection site (these 36 hours might include up to 24 hours travelling time within the territory of the inspected State Party). Furthermore, it has been understood that the Technical Secretariat, in planning the time at which the inspection team will arrive at the point of entry, should take into account: the respective time zone(s) of the inspected State Party as related to the seat of the Organization; the geographic and infrastructural conditions in that country; and the location and accessibility of the inspection site as related to the point of entry.

"40. With regard to Article XI: In connection with Article XI, attention is drawn to the CD plenary statement by the Australian representative on 6 August 1992, in which he stated:

> 'They (members of the "Australia Group") undertake to review, in the light of the implementation of the Convention, the measures that they take to prevent the spread of chemical substances and equipment for purposes contrary to the objectives of the Convention, with the aim of removing such measures for the benefit of States Parties to the Convention acting in full compliance with their obligations under the Convention.'

"41. The draft Convention, as contained in document CD/CW/WP.400/Rev.2, met with the support of most delegations, who were of the opinion that the draft Convention, as a compromise text, necessarily could not satisfy all negotiating positions of each delegation; that the text of the draft Convention, after many years of negotiation, represented a delicate equilibrium balancing many interests; that the results achieved during the concluding, very intensive rounds of negotiations were to be commended; and that the draft Convention, as an historic achievement of multilateral arms control and disarmament negotiations, should now be transmitted to the United Nations General Assembly for commendation and opened for signature at an early date.

"V. CONCLUSIONS AND RECOMMENDATIONS

"42. The results of the negotiations on the draft Convention are reflected in the Appendix to this report containing the draft Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, as well as the text on the Establishment of a Preparatory Commission and the material to be transmitted to the Preparatory Commission.

"43. The Ad Hoc Committee agreed to transmit this report and its Appendix to the Conference on Disarmament for its consideration."

The appendix to the report of the Ad Hoc Committee on Chemical Weapons is attached as appendix I to this report.

74. It was agreed by consensus that the draft Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, adopted by the Conference on Disarmament, be transmitted to the forty-seventh session of the United Nations General Assembly.

E. Prevention of an Arms Race in Outer Space

75. The list of documents presented to the Conference during its 1992 session under the agenda item is contained in the report submitted by the Ad Hoc Committee referred to in the following paragraph.

76. At its 632nd plenary meeting, on 18 August 1992, the Conference adopted the report of the Ad Hoc Committee re-established by the Conference under the agenda item at its 612th plenary meeting (see paragraph 8 above). That report (CD/1165) is an integral part of this report and reads as follows:

"I. INTRODUCTION

"1. At its 612th plenary meeting on 13 February 1992, the Conference on Disarmament adopted the following decision (CD/1125):

> 'In the exercise of its responsibilities as the multilateral disarmament negotiating forum in accordance with paragraph 120 of the Final Document of the first special session of the General Assembly devoted to disarmament, the Conference on Disarmament decides to re-establish an Ad Hoc Committee under item 5 of its agenda entitled "Prevention of an Arms Race in Outer Space".
>
> 'The Conference requests the Ad Hoc Committee, in discharging that responsibility, to continue to examine, and to identify, through substantive and general consideration, issues relevant to the prevention of an arms race in outer space.
>
> 'The Ad Hoc Committee, in carrying out this work, will take into account all existing agreements, existing proposals and future initiatives as well as developments which have taken place since the establishment of the Ad Hoc Committee, in 1985, and report on the progress of its work to the Conference on Disarmament before the end of its 1992 session.'

"2. In that connection, some delegations made statements regarding the scope of the mandate.

"II. ORGANIZATION OF WORK AND DOCUMENTS

"3. At its 613th plenary meeting on 20 February 1992, the Conference on Disarmament appointed Ambassador Romulus Neagu of Romania as Chairman of the Ad Hoc Committee. Mr. Vladimir Bogomolov, Political Affairs Officer, United Nations Office for Disarmament Affairs served as the Committee's Secretary.

"4. The Ad Hoc Committee held 13 meetings between 10 March and 11 August 1992.

"5. In addition to the documents of the previous sessions 1/ the Ad Hoc Committee had before it the following documents relating to the agenda item submitted to the Conference on Disarmament during the 1992 session:

CD/1142	Letter dated 11 March 1992 from the Permanent Representative of Canada addressed to the Secretary-General of the Conference on Disarmament transmitting Compendia on Outer Space comprising Plenary Statements and Working Papers from 1991 Session of the Conference on Disarmament.
CD/OS/WP.52	Programme of Work
CD/OS/WP.53	Letter dated 15 May 1992 from the Friend of the Chairman of the Ad Hoc Committee on the Prevention of an Arms Race in Outer Space addressed to the Chairman of the Ad Hoc Committee on the Prevention of an Arms Race in Outer Space, forwarding the Working Paper 'Table of Statements and Proposals by the members of the Conference on Disarmament relating to Confidence-Building Measures (CBMs) in Outer Space Activities'.
CD/OS/WP.54	Working Paper entitled 'Confidence-Building Measures in Space Activities', submitted by the Friend of the Chair, Col. G. Diachenko of the Delegation of the Russian Federation.
CD/OS/WP.55	Working Paper entitled 'Nuclear Power Systems in Space', submitted by Mr Luciano Anselmo, Expert of the Delegation of Italy.
CD/OS/WP.56	Working Paper entitled 'Remarks on keep-out zones in a code of conduct regime for outer space', submitted by Dr. Hubert Feigl, Expert of the Delegation of Germany.

"III. SUBSTANTIVE WORK DURING THE 1992 SESSION

"6. Following consultations on the organization of work, at its first meeting on 10 March 1992, the Ad Hoc Committee adopted the following Programme of Work for the 1992 Session:

"1/ The List of Documents of the previous sessions may be found in the 1985, 1986, 1987, 1988, 1989, 1990 and 1991 Reports of the Ad Hoc Committee, and in the special report to the Third Special Session of the General Assembly devoted to Disarmament (CD/642, CD/732, CD/787, CD/870, CD/834, CD/956, CD/1039 and CD/1111, respectively).

'1. Examination and identification of issues relevant to the prevention of an arms race in outer space;

'2. Existing agreements relevant to the prevention of an arms race in outer space;

'3. Existing proposals and future initiatives on the prevention of an arms race in outer space;

'In carrying out its work with a view to finding and building upon areas of convergence, the Ad Hoc Committee will take into account relevant proposals, initiatives and developments since the establishment of the Committee in 1985 including those presented at the 1991 session of the Conference on Disarmament aimed at enhancing the work of the Ad Hoc Committee as reflected in the work of the Friends of the Chairman, who dealt with the following specific issues in open-ended consultations: Terminological Aspects related to the prevention of an arms race in outer space, issues related to Verification of ASATs and Confidence-Building Measures, including improvement of existing and future databases relating to space activities.'

"7. With regard to the organization of work, the Ad Hoc Committee agreed that it would give equal treatment to the subjects covered by its mandate and specified in its Programme of Work. Accordingly, the Committee agreed to allocate the same number of meetings to each of those subjects. It was noted that any member wishing to do so may discuss any subject important and relevant to the work of the Committee.

"8. The work of the Ad Hoc Committee was governed by the mandate which aims at the Prevention of an Arms Race in Outer Space.

"9. The Ad Hoc Committee agreed to continue to enjoy the assistance of the Friends of the Chairman who were appointed by the Chairman to deal with the following issues without prejudice to positions of delegations in open-ended consultations: (a) terminological aspects, related to prevention of an arms race in outer space (The Hon. Anthony Monckton, Delegation of the United Kingdom of Great Britain and Northern Ireland); (b) issues related to verification of ASATs (antisatellite weapons) (Dr. M. Karem, Delegation of Egypt); (c) confidence-building measures in space activities (Col. G. Diachenko, Delegation of the Russian Federation).

"10. The Committee benefited from the scientific and technical contributions of experts from various delegations, who addressed specific issues and initiatives under consideration in the Committee. The subjects addressed included technical, legal and terminological issues, i.e. peaceful and military uses, protection of satellites, keep-out zones, radioactive materials in outer space and principles governing the re-entry of nuclear power sources in the atmosphere, a need to build a set of principles of CBMs.

"A. Examination and identification of issues relevant to the prevention of an arms race in outer space

"11. Many delegations considered that, in the post cold war period, preventing an arms race in outer space was one of the principal tasks facing the Conference on Disarmament. In this age of high technology and qualitative increases in weapons precision, outer space stood out as an environment vulnerable to militarization. Some delegations stressed that action by the Conference on Disarmament in preventing an arms race in outer space was not only timely, but essential for ensuring that the province of all mankind was indeed explored and used exclusively for peaceful purposes. For those delegations weaponization of outer space was a potential hazard to the space activities of mankind and the peaceful use of outer space. In their view it would be too late to set about drafting a treaty on the prohibition of the weaponization of outer space once such weaponization became a fait accompli.

"12. Many delegations expressed their regret that the mandate of the Committee remained the same, and that no substantive change had been added to its programme of work. Some delegations pointed out that the Ad Hoc Committee should as early as possible conduct substantive negotiations on the conclusion of a comprehensive legal instrument on the prevention of an arms race in outer space.

"13. The Group of 21 considered that there was an urgent need to address this important agenda item so as to achieve progress. For this reason, the Group took a flexible position on the question of the mandate and the programme of work although it would have preferred the Committee to work under a negotiating mandate, which would help to concentrate the efforts of the Committee on concrete proposals.

"14. In the view of several delegations the most promising directions of work of the Committee appeared to be in the area of CBMs: the development of a code of conduct/rules of the road, the establishment of 'keep-out zones', the legal protection of satellites, an agreement on their immunity, the creation of an international trajectography centre, and of a satellite image processing agency.

"15. One delegation of the Western Group addressing the subject of space debris indicated that various misconceptions about them had caused some to conclude that an international legal regime on space debris would be needed. In the view of this delegation for such a regime to be established, several legal issues, including the definition of space debris, jurisdiction and control over space debris, and the treatment of liability for damage from orbital debris would be only some of the many legal issues that would need to be resolved. Another delegation of the Western Group presented an expert who gave his own views on the legal background to some terminological issues. The expert referred to other international treaties and concluded that in his view, even though in some contexts 'peaceful' meant 'non-military', any ambiguity had been clarified by State practice which had not been contradicted in a forceful manner by any State formally protesting military utilization of space. The expert believed that current military uses of space such as communications, navigation, photo reconnaissance, early warning and weather monitoring all appeared to be lawful.

"16. Some delegations referred to the issue of the 'Global Protection Against Limited Strikes' (GPALS). One delegation not belonging to any group indicated that although the world had undergone major changes, the research and development of space weapons had not come to an end. The new anti-ballistic missile system was not totally defensive in nature and also had an attacking capability. In its view the development of such a system would inevitably give rise to mutual suspicion among the States and contribute to more tensions in the world. It could also provoke countries with the ability to develop a ballistic missile system to speed up its development. In the opinion of that delegation the implementation of GPALS would surely violate the ABM Treaty, which would have to be either terminated or amended.

"B. Existing agreements relevant to the prevention of an arms race in outer space

"17. A majority of the members of the Committee pointed out that the legal regime applicable to outer space by itself did not guarantee the prevention of an arms race in outer space. There was a need to consolidate and reinforce that regime and enhance its effectiveness. Existing legal instruments were not satisfactory. Limited in scope, they were utterly inadequate in forestalling an arms race in outer space in that they contained no clear-cut provisions on the prohibition of deployment of various types of space weapons, except that of nuclear weapons and other weapons of mass destruction. According to some delegations it was therefore necessary to conclude a legal instrument, acceptable to all States, on the de-weaponization of outer space, and on the prohibition of all types of space weaponry.

"18. Some delegations of the Western Group maintained that the existing legal regime provided an equitable and balanced response to the need to promote peaceful uses and arms control in outer space.

"19. One delegation of the Western Group stated that the legal regime governing outer space could be seen to be wide-ranging and logical. According to that delegation there were no contradictions in its framework, nor was the existing regime full of gaps and holes. It was effective, practical and, most of all, workable. It was not perfect, but its problems would be inherent in any legal regime for arms control in outer space. Any perceived gaps in the legal regime could be satisfied by particular attention to the principles now in existence. Other delegations of the same Group emphasized that what was really in question was compliance with the existing legal regime. They underlined that there were many nations that have not ratified or acceded to the existing international agreements pertaining to outer space and, for this reason, cooperative efforts could not be pursued on this subject in an effective manner.

"20. Another delegation of the same group argued that the legal regime could be reinforced by improving State practice under existing conventions. For example, with respect to the Registration Convention, the United Nations Secretariat might devise some standard form of automatic despatch of notices to remind States of their obligations under the Convention. This would strengthen the role of the Secretary-General in the pursuit of greater transparency in outer space activities. The Conference on Disarmament might also recommend to the Security Council that it adopt a resolution both requesting the Secretary-General to send out automatic reminder notices, and setting up a committee of the Council to review periodically any failures of States to register their launches. The delegation suggested that more frequent use of Article IX of the Outer Space Treaty of 1967, might well serve as a consultative mechanism to expand the kind and amount of information to be provided under the Registration Convention. Article XI of the Outer Space Treaty could serve as a basis for requiring data beyond that which is currently routinely provided under the Registration Convention. It would also underline the more active role which the Secretary-General might play and indeed seemed already authorized to play in serving a data-collection function.

"C. Existing proposals and future initiatives on the prevention of an arms race in outer space

"21. The Group of 21 recalled its proposal for the Ad Hoc Committee to have a negotiating mandate. The Group held the position that the Committee should focus on concrete proposals for measures with a view to conducting negotiations for the conclusion of an agreement or agreements, as appropriate, to prevent an arms race in outer space in all its aspects.

"22. Some delegations reiterated that the Outer Space Treaty, in the first paragraph of Article IV, left a legal loophole exploited by some space Powers to develop a new generation of weapons that could be placed in outer space. In this connection, one delegation recalled its proposal contained in document CD/851 to amend Article IV. It stressed that the proposal was aimed at filling in an important juridical vacuum in the Outer Space Treaty and to prevent the stationing in outer space of weapons other than nuclear and mass destruction weapons.

"23. The question of the functioning of the Registration Convention and ways of strengthening the regime established by it, was again addressed by several delegations. Improvements could include the provision of more timely and specific information concerning the function of satellites, including whether the satellite was fulfilling a civilian or military mission.

"24. In connection with the legal protection of satellites, some delegations indicated that both the questions of ASAT weapons and of immunity of space devices should be addressed in order to achieve an ASAT prohibition and to guarantee legal immunity for satellites performing definitive peaceful functions. One delegation of the Western Group recalled that it had not found any measure in the field of ASATs that would be verifiable or equitable. The inability to construct a suitable and effective verification system could prevent agreements from being finalized. On the subject of 'keep-out zones', it had concluded that the physical characteristics of space and spacecraft motion, coupled with the sheer number of objects that would need to be tracked, would make it difficult, if not impossible, for most space nations to monitor compliance with 'keep-out zones'. In its view 'keep-out zones' would not be practical for providing protection to satellites. Another delegation indicated that verification and monitoring of observance of such zones would be a delicate task and hence the usefulness of a trajectography tracking centre. One delegation of the Western Group presented an expert's report on 'Keep-Out Zones' as part of a Code of Conduct. 'Keep-Out Zones' could play an essential role in a Protection regime which cared for the protection of a State's space activities through agreed and verifiable provisions. The concept of 'Keep-Out Zones' in this understanding might be combined with declared or notified pre-launch information, thus contributing essentially to confidence-building measures.

"25. A substantial part of the discussions was devoted to confidence-building measures and ensuring greater transparency in space activities. Many delegations were of the view that CBMs was one of the areas where some degree of certainty and convergence of views existed and could form part of a negotiating process with a view to reaching agreements. Several delegations favoured the approach centred on non-interference with non-aggressive activities and CBMs which would support that objective.

"26. One delegation emphasized that while the CBMs contributed to the positive development in international relations, the discussions on CBMs should not obstruct the creation of a substantive and legally binding treaty banning all space weapons. In its view some of the CBMs already on the table could be considered as verification measures for a future treaty, among them the establishment of an appropriate international supervisory body to inspect objects before they are launched into space.

* * *

"27. The discussion of the Friend of the Chair for Terminological Issues centred on two non-papers prepared by him on the phrases 'peaceful purposes' and 'the militarization of space'. Some delegations of the Western Group thought that basic groundwork on terminology was essential if areas of consensus were to be found. The debate on 'peaceful purposes' indicated that some delegations maintained that the concept meant 'no military use of space', while other delegations believed it meant 'non aggressive use of space'. One delegation of the Western Group considered that since no delegation questioned the illegality of any aggressive use of outer space, a common denominator existed on that notion. On 'militarization' there was agreement that further work was needed on the definition of a 'space weapon'. One delegation of the Western Group suggested that it would be useful to concentrate on what was regarded as being 'destabilizing' rather than on trying to define the 'acceptable' uses of space.

"28. The Friend of the Chair for verification of ASATs held open-ended consultations on the basis of the paper he had prepared (CD/OS/WP.50). In these consultations some delegations insisted that there was no legal instrument that governed activities of States with regard to this system and other delegations of the Western Group recalled that the existing legal regime placed a wide variety of legal restraints on the nature, deployment and use of ASATs. For those delegations the lack of a clear and broad enough definition of antisatellite weapons and their components was a serious obstacle to progress in the preparation of legal instruments. It was suggested that, in spite of their complexities, the problems of definition and verification could be dealt with by the Conference on Disarmament. The question of verification would eventually depend on the type of instrument that was being devised. It was also proposed to explore whether there existed or not, from a strategic or military point of view, any difficulties or any objections ad initio to the preparation of a legal instrument. Some delegations proposed to deal with the subject in a gradual progressive fashion and by confidence-building, transparency and trajectory control measures that would raise the financial and political costs of an aggressive use of Outer Space. One delegation of the Western Group also indicated that ASATs could not be dealt with without having as a legal basis or background an agreement on the concept of aggression. It was the view of the Friend of the Chair that the joint participation of several experts from interested delegations could help to facilitate a better understanding of the problems under consideration and identification of promising areas. One delegation presented a Non-Paper entitled 'ASATs: Realities and Prospects'.

"29. The Friend of the Chair for confidence-building measures in space activities conducted consultations with the interested parties. As the outcome of those consultations, as well as on the basis of the statements and documents previously submitted to the Committee, he drafted an analytical non-paper where he identified five possible areas for the development of CBMs in outer space: (a) Strengthening of the 1975 Convention on Registration of Objects Launched into Outer Space; (b) Use of satellite monitoring in the interests of the international community; (c) Drawing up of 'rules of the road'/a 'code of conduct'; (d) Inspections of space objects at launching sites; (e) Establishment of an international trajectography centre. As a result of further consultations and at the recommendation of several delegations, these areas were grouped under three main headings: (a) Measures to promote transparency, openness and predictability; (b) Rules for the behaviour of space objects ('Rules of the road'/a 'code of conduct' for outer space); (c) 'Institutional' measures (the establishment of various types of body for the implementation of confidence-building measures: world space organization, international satellite monitoring agency, satellite image processing agency, international space monitoring agency, inspectorate and trajectography centre). The Friend of the Chairman stated that there was wide agreement on the extension of the volume and nature of the information supplied by States on space objects and, perhaps, on a few of the simplest notification measures discussed in the context of 'rules of conduct' in outer space. Hence, a study of those topics with the help of technical and scientific experts, would be a promising way of promoting broad consensus.

"IV. CONCLUSIONS

"30. There continued to be general recognition in the Ad Hoc Committee of the importance and urgency of preventing an arms race in outer space and readiness to contribute to that common objective. The work of the Committee since its establishment in 1985 has contributed to the accomplishment of this task. The debates and the presentations made by experts at this annual session contributed to further identifying and clarifying a number of issues relevant to the prevention of an arms race in outer space. The Committee has also advanced in its efforts to identify areas of convergence suitable for a more structured work. It was recognized once more that the legal regime applicable to outer space by itself did not guarantee the prevention of an arms race in outer space. There was again recognition of the significant role that the legal regime applicable to outer space played in the prevention of an arms race in that environment and of the need to consolidate and reinforce that regime and enhance its effectiveness and of the importance of strict compliance with existing agreements, both bilateral and multilateral. In the course of the deliberations, the common interest of mankind in the exploration and use of outer space for peaceful purposes was acknowledged. In this context, there was also recognition of the importance of paragraph 80 of the Final Document of the first special session devoted to disarmament, which stated that 'in order to prevent an arms race in outer space, further measures should be taken and appropriate international negotiations held in accordance with the spirit of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and other Celestial Bodies'. The Ad Hoc Committee continued its examination of existing and some new proposals aimed at preventing an arms race in outer space and ensuring that its exploration and use will be carried out exclusively for peaceful purposes in the common interest and for the benefit of all mankind.

"31. In the context of their contribution to the discussions on all aspects of the mandate and work programme, the importance of the presentations in the Committee relating to confidence-building measures and to greater transparency and openness in space made in the course of the 1992 session was recognized by the Committee. Although cognizant of the various positions on these matters the Committee also recognized the relevance of that discussion to the work of the Committee.

"32. The Committee noted the valuable and significant contribution to the discussions of the experts from several delegations and expressed its appreciation to those delegations that provided those contributions. The Committee equally voiced its appreciation of the preliminary work continued by the Friends of the Chairman and their organization of open-ended consultations on such important issues as those related to ASATs, CBMs and terminological aspects of the prevention of an arms race. It viewed the outcome of their efforts as an encouraging development in the process of building upon the areas of convergence. The Ad Hoc Committee recommended to continue such exercises in 1993.

"33. It was agreed that substantive work on this agenda item should continue at the next session of the Conference. It was recommended that the Conference on Disarmament re-establish the Ad Hoc Committee on the Prevention of an Arms Race in Outer Space with an adequate mandate at the beginning of the 1993 session, taking into account all relevant factors, including the work of the Committee since 1985."

F. Effective International Arrangements to Assure Non-Nuclear-Weapon States Against the Use or Threat of Use of Nuclear Weapons

77. The document presented to the Conference during its 1992 session under the agenda item is contained in the report submitted by the Ad Hoc Committee referred to in the following paragraph.

78. At its 631st plenary meeting on 13 August 1992, the Conference adopted the report of the Ad Hoc Committee re-established by the Conference under the agenda item at its 606th plenary meeting (see paragraph 8 above). That report (CD/1160) is an integral part of this report and reads as follows:

"I. INTRODUCTION

"1. At its 606th plenary meeting on 21 January 1992 the Conference on Disarmament decided to re-establish, for the duration of its 1992 session, an Ad Hoc Committee to continue to negotiate with a view to reaching agreement on effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons. It further decided that the Ad Hoc Committee would report to the Conference on the progress of its work before the conclusion of the 1992 annual session (CD/1121).

"II. ORGANIZATION OF WORK

"2. At its 613th plenary meeting on 20 February 1992, the Conference on Disarmament appointed Ambassador Sirous Nasseri of the Islamic Republic of Iran as Chairman of the Ad Hoc Committee. Mr. V. Bogomolov, Political Affairs Officer, United Nations Office for Disarmament Affairs, served as Secretary of the Ad Hoc Committee.

"3. The Ad Hoc Committee held three meetings between 22 June and 3 August 1992.

"4. In addition to the documents of the previous sessions related to this item, the following working paper was submitted to the Ad Hoc Committee by France at this annual session: CD/SA/WP.14 dated 3 August 1992 entitled 'Basic elements for a legally binding agreement on negative security assurances'.

"III. SUBSTANTIVE WORK

"5. At the beginning of the annual session, the Chairman of the Ad Hoc Committee conducted informal consultations with the delegations and the Group coordinators to determine the best way to address the item entitled 'Effective International Arrangements to Assure Non-nuclear-weapon States against the Use or Threat of Use of Nuclear Weapons' this year, particularly in light of the Conference's focus on concluding the Chemical Weapons Convention. These consultations revealed that all delegations, including those of the nuclear-weapon States, continued to attach importance to the agenda item and were ready to engage in substantive discussions on the issue.

"6. During the formal meetings of the Ad Hoc Committee, various groups and individual delegations reaffirmed or further elaborated their respective positions, the detailed descriptions of which can be found in the previous annual reports of the Committee, related Conference documents and working papers, and Plenary records.

"IV. CONCLUSIONS AND RECOMMENDATIONS

"7. The Ad Hoc Committee reaffirmed that non-nuclear-weapon States should be effectively assured by the nuclear-weapon States against the use or threat of use of nuclear weapons pending effective measures of nuclear disarmament. Work on the substance of the effective arrangements and discussion on some aspects and elements of a solution, together with the series of informal consultations by the Chairman, revealed that specific difficulties relating to differing perceptions of security interests of nuclear-weapon States and non-nuclear-weapon States persisted and that the complex nature of the issues involved continued to prevent agreement on a 'common formula'. The formal debates and informal consultations demonstrated the readiness of delegations to continue the search for a common approach on the substance of Negative Security Assurances.

"8. Against this background the Conference on Disarmament continued to recognize the importance of the question of effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons and felt that there was a need to take a fresh look at this question, in light of recent transformations in the international political climate and other positive developments in order to achieve forward movement in this extremely important area so as to enable the Ad Hoc Committee to fulfil its mandate as soon as possible.

"9. Accordingly there was agreement on the recommendation that the Ad Hoc Committee should be re-established at the beginning of the 1993 session."

G. New Types of Weapons of Mass Destruction and New Systems of Such Weapons: Radiological Weapons

79. The list of documents presented to the Conference during its 1992 session under the agenda item is contained in the report submitted by the Ad Hoc Committee referred to in the following paragraph.

80. At its 629th plenary meeting on 6 August 1992, the Conference adopted the report of the Ad Hoc Committee re-established by the Conference under the agenda item at its 606th plenary meeting (see paragraph 8 above). That report (CD/1159) is an integral part of this report and reads as follows:

"I. INTRODUCTION

"1. In accordance with the decision taken by the Conference on Disarmament at its 606th plenary meeting held on 21 January 1992, as contained in document CD/1122, the Ad Hoc Committee on Radiological Weapons was re-established, for the duration of the 1992 session, with a view to reaching agreement on a convention prohibiting the development, production, stockpiling and use of radiological weapons. The Conference further decided that the Ad Hoc Committee would report to it on the progress of its work before the conclusion of its 1992 session.

"II. ORGANIZATION OF WORK AND DOCUMENTATION

"2. At its 613th plenary meeting on 20 February 1992, the Conference on Disarmament appointed Ambassador Serguei Batsanov of the Russian Federation as Chairman of the Ad Hoc Committee. Mr. Michael Cassandra of the United Nations Office for Disarmament Affairs served as Secretary of the Ad Hoc Committee.

"3. The Ad Hoc Committee held four meetings from 17 March to 27 July 1992. In addition, the Chairman held a number of informal consultations with delegations.

"4. In accordance with the decision of the Conference at its 603rd plenary meeting on 22 August 1991, the Ad Hoc Committee was open to non-member States invited by the Conference to participate in its work.

"5. In addition to various resolutions adopted by the United Nations General Assembly on the subject at its previous sessions, the Ad Hoc Committee had before it resolution 46/36 E adopted by the General Assembly at its forty-sixth session entrusting specific responsibilities to the Conference on Disarmament on this subject.

"6. The following working papers were presented to the Ad Hoc Committee:

CD/RW/WP.94 dated 17 March 1992 entitled 'Programme of Work and Tentative Timetable for the 1992 session';

CD/RW/WP.94/Add.1 dated 22 June 1992 entitled 'Timetable for the remainder of the 1992 session';

CD/RW/WP.95 dated 22 June 1992 entitled 'Report of Contact Group A';

CD/RW/WP.96 dated 27 July 1992 entitled 'Report of Contact Group B'.

"III. WORK DURING THE 1992 SESSION

"7. At its first meeting on 17 March 1992, at the suggestion of the Chairman, the Ad Hoc Committee agreed that it continue the same method of work adopted since 1987, that is, that Contact Group A continue to consider the prohibition of radiological weapons in the 'traditional' sense and that Contact Group B continue to consider issues relevant to the prohibition of attacks against nuclear facilities.* It was also agreed that the work of the two groups should be pursued as recommended in the 1991 report of the Ad Hoc Committee (CD/1099), that is, to draw upon the two annexes contained in that report as a basis for its work.

"8. At the same meeting, the Ad Hoc Committee appointed Mr. John L. Ausman of Canada to coordinate the work of Contact Group B. At a subsequent meeting on 23 March 1992, the Ad hoc Committee appointed Mr. Nebojsa Dimitrijevic of Yugoslavia to coordinate the work of Contact Group A.

"9. The Ad Hoc Committee held a general exchange of views, after which its work was carried out principally in the framework of the Contact Groups as established above. On the basis of that work, the Coordinator of Contact Group A presented to the Ad Hoc Committee, at its 3rd meeting on 22 June 1992, the report of the Contact Group (CD/RW/WP.95). The Coordinator of Contact Group B presented the report of the Contact Group (CD/RW/WP.96) on 27 July 1992. These two reports are reproduced in Annexes I and II to the

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"* One delegation did not take part in the work on the prohibition of attacks against nuclear facilities.

present report and reflect the current state of consideration of the issues before the Ad Hoc Committee. It is understood that the contents of the Annexes are not binding on any delegation and are without prejudice to further work.

"IV. CONCLUSIONS AND RECOMMENDATIONS

"10. The work conducted by the Ad Hoc Committee during its 1992 session contributed further to the clarification of different approaches which continue to exist with regard to both the important subjects under consideration. It is recommended that the Conference on Disarmament re-establish the Ad Hoc Committee at the beginning of the 1993 session and that it give guidance to the Ad Hoc Committee on reviewing the organization of its work with the aim of fulfilling its mandate.

"ANNEX I

"Report of Contact Group A

"1. In accordance with the decision taken by the Ad Hoc Committee on Radiological Weapons at its first meeting on 17 March 1992, Contact Group A was re-established to continue consideration of the issues relevant to the prohibition of radiological weapons.

"2. Contact Group A held four meetings from 23 March to 22 June 1992. In addition, the Coordinator held a number of informal consultations with delegations.

"3. According to the guidelines set out during the first meeting of the Ad Hoc Committee, Contact Group A used as a basis for its substantive work the Coordinator's record as contained in the Report of the Ad Hoc Committee to the Conference on Disarmament in 1991 (CD/1099, Annex I, Attachment). The Contact Group reviewed the draft articles for a convention on the prohibition of radiological weapons contained therein. New language was added in the footnote attached to the second alternative of both 'Scope' and 'Definitions'. Further, in the section 'Verification and Compliance' the bracketed language in paragraph 3 was deleted, as well as the proposal in paragraph 2 of the 'Annex'. In consequence, the footnote attached to paragraph 6 of 'Other Main Elements' was also deleted.

"4. The amended Coordinator's record is attached to the report and reflects the current stage of the Contact Group's consideration of the question.

"5. The Coordinator's record is not binding upon any delegation and does not preclude any delegation from introducing proposals to the text as a whole or the elements thereof at a later stage. It is recommended that it be appended to the Ad Hoc Committee's report to the Conference on Disarmament, as a basis for future work.

"Attachment

"DRAFT ARTICLES FOR A CONVENTION ON THE PROHIBITION OF RADIOLOGICAL WEAPONS

"PREAMBLE

"The States Parties to this Convention, hereinafter referred to as the 'Parties to the Convention',

"desiring to contribute to the realization of the purposes and principles of the Charter of the United Nations,

"determined to act with a view to achieving progress towards general and complete disarmament under strict and effective international control, including the prohibition and elimination of all types of weapons of mass destruction as well as the development of new types of such weapons as radiological weapons,

....

"bearing in mind that the prohibition of radiological weapons is a step in the process towards general and complete disarmament,

"further bearing in mind longlasting effects of radioactive contamination on living creatures as well as on the environment,

"Have agreed as follows:

"I. SCOPE

"Paragraph 1

"First alternative

"Each Party to the Convention undertakes to prohibit radiological weapons and hence never under any circumstances

"(a) to disseminate deliberately any radioactive material, including radioactive waste, for the purpose of causing injury, death, damage or destruction by means of the radiation produced directly or indirectly by the decay of such material;

"(b) to develop, produce, stockpile, otherwise acquire, possess or transfer any device specifically designed for the dissemination of radioactive material prohibited under (a) of this paragraph.

"Second alternative

"[Each Party to the Convention undertakes not to develop, produce, stockpile, otherwise acquire, possess, transfer or use under any circumstances Radiological Weapons as defined in Section II.] 1/

"1/ Views were expressed that the second alternative of paragraph 1 of 'Scope', combined with the second alternative of 'Definitions' needed further study by all delegations to see whether this or modified language would provide a definition of a radiological weapon which would allow for the deletion of the first alternative and possibly for the deletion of paragraphs 1 and 2 of 'Other Main Elements'.

"Paragraph 2

"Each Party to the Convention undertakes to take any measures it considers necessary in accordance with its constitutional procedures and its international obligations anywhere under its jurisdiction and control to

"(a) prohibit and prevent any activity which would constitute a violation of the obligations undertaken by the Parties to the Convention;

"(b) prohibit the diversion and prevent the loss of radioactive material which could be used for purposes prohibited by this Convention.

"Paragraph 3

"Each Party to the Convention undertakes not to assist, encourage or induce anyone to engage in activities prohibited by the provisions of this Convention.

"[II. DEFINITIONS]

"First alternative

"[For the purposes of this Convention the term 'radiological weapon' means:

"(i) any device specifically designed for the dissemination of radioactive material to cause [as its primary effect] injury, death, damage or destruction by means of the decay of such material,

"(ii) any radioactive material specifically designed and prepared for employment, by its dissemination, to cause injury, death, damage or destruction by the decay of such material,

"(iii) any other radioactive material if used for employment by its dissemination to cause injury, death, damage or destruction by the decay of such material.]

"Second alternative

"[For the purpose of the Convention, the term 'radiological weapon' means any device containing radioactive material or waste as its principal harmful element and specifically designed or used to cause injury, death, environmental damage, or destruction through the direct or indirect effects of ionizing radiation, without involving the critical assembly of any fissile material.] 1/

"1/ Views were expressed that the second alternative of paragraph 1 of 'Scope', combined with the second alternative of 'Definitions' needed further study by all delegations to see whether this or modified language would provide a definition of a radiological weapon which would allow for the deletion of the first alternative and possibly for the deletion of paragraphs 1 and 2 of 'Other Main Elements'.

"III. PEACEFUL USES

"Paragraph 1

"Nothing in this Convention should be interpreted as affecting in any way

"(a) the full exercise of the inalienable rights of all Parties to the Convention, without discrimination, to develop, acquire and use nuclear technology, equipment and materials for the peaceful use of nuclear energy and all peaceful applications of their nuclear programmes for economic and social development in accordance with their national priorities, needs and interests, bearing in mind the need to prevent the proliferation of nuclear weapons in all its forms. International cooperation in the peaceful uses of nuclear energy should be conducted under agreed and appropriate international safeguards applied on a non-discriminatory basis;

"(b) the undertakings of Parties to the Convention to contribute to the fullest possible extent to international cooperation and assistance to ensure the development and effective implementation of adequate measures of protection for all States against the harmful effects of radiation.

"Paragraph 2

"Nothing in this Convention shall be interpreted as requiring or permitting a Party to the Convention to take measures which could affect the programmes of other States for peaceful uses of nuclear energy or technology for their economic or social development.

"IV. OTHER MAIN ELEMENTS

"Paragraph 1

"The provisions of this Convention shall not apply to nuclear explosive devices or to radioactive material produced by them. 1/

"Paragraph 2

"Nothing in this Convention shall be interpreted as in any way legitimizing the development and the use of nuclear weapons or detracting from the obligations of States to refrain from the use or threat of use of such weapons. 1/, 2/

"Paragraph 3

"Parties to the Convention undertake to pursue urgently negotiations for the cessation of the nuclear arms race, the conclusion of effective measures to prevent the use or threat of use of nuclear weapons and the achievement of nuclear disarmament. 2/, 3/

"1/ Objections were raised against the need for this paragraph.

"2/ A view was expressed that this subject might be better dealt with in the preambular part.

"3/ Some delegations were of the view that such an undertaking was outside the purview of this Convention.

"Paragraph 4

"Nothing in this Convention shall be interpreted as in any way limiting or detracting from rules of international law, including

"(a) the Charter of the United Nations;

"(b) law applicable to armed conflicts;

"(c) obligations assumed by Parties to the Convention under other international agreements.

"Paragraph 5

"Ten years after entry into force of the Convention, or earlier if requested by a simple majority of States Parties, a Conference of States Parties to the Convention shall be held at Geneva, Switzerland. The Conference shall review the operation of the Convention with a view to assuring that the purposes of the preamble and the provisions of the Convention were being realized. Such review shall take into account any relevant technological developments.

"At intervals of not less than five years thereafter, a simple majority of the States Parties to the Convention may obtain by submitting a proposal to this effect to the Depositary, the convening of a Conference with the same objectives.

"If no Conference has been convened pursuant to paragraph 2 of this Article within 10 years following the conclusion of a previous Conference, the Depositary shall solicit the views of all States Parties to this Convention, concerning the convening of such a Conference. If one third of the States Parties respond affirmatively, the Depositary shall take immediate steps to convene the Conference.

"Paragraph 6

"Each State Party to the Convention undertakes as it considers appropriate to provide or support technical and humanitarian assistance in accordance with the provisions of the Charter of the United Nations, to any State Party which so requests, harmed as a result of a violation of the Convention by another State Party or as a result of the use of radiological weapons by a State not party to the Convention.

"For purposes of assistance, the services of appropriate international organizations may also be utilized.

"Paragraph 7

"Any State Party to this Convention may propose amendments to the Convention. The text of any proposed amendment shall be submitted to the Depositary, who shall promptly circulate it to all States Parties.

"An amendment shall enter into force for all States Parties to this Convention which have accepted it, upon the deposit with the Depositary of instruments of acceptance by a majority of States Parties. Thereafter it shall enter into force for any remaining State Party on the date of deposit of its instrument of acceptance.

"Paragraph 8

"The Secretary-General of the United Nations shall be the Depositary of this Convention.

"V. VERIFICATION AND COMPLIANCE

"Paragraph 1

"Parties to the Convention shall exchange to the fullest possible extent, bilaterally or multilaterally, information necessary to provide assurance of fulfilment of their obligations under the Convention.

"Paragraph 2

"Parties to the Convention undertake to consult one another and to cooperate in solving any problems which may be raised in relation to the objectives of, or in the application of, the provisions of the Convention.

"Consultation and cooperation pursuant to this paragraph may also be undertaken through appropriate international procedures within the framework of the United Nations and in accordance with its Charter. These international procedures may include the services of appropriate international organizations, as well as of a Committee of Experts. For these purposes the Depositary shall, within one month of the receipt of a request from any State Party to the Convention, convene a Committee of Experts.

"Paragraph 3

"Each Party to the Convention which has reasons to believe that any other Party to the Convention is acting in breach of the obligations deriving from the provisions of the Convention may lodge a complaint with the Depositary. Such a complaint shall include all relevant information as well as all possible evidence supporting its validity. In order to evaluate such information, the Depositary may convene the Committee of Experts.

"The Depositary, assisted by the Committee of Experts, shall conduct an investigation of the alleged facts, whenever the evaluation of the information provided to him indicates that such an investigation is warranted.

"The Committee shall transmit to the Depositary a summary of its findings of fact, incorporating all views and information presented to the Committee during its proceedings. The Depositary shall distribute the summary to all Parties to the Convention and to the Security Council and shall indicate his conclusions and suggestions for possible action. In case of urgency, the Depositary may request the Committee to submit its report within 10 days.

"Paragraph 4

"Each Party to the Convention undertakes to cooperate to the fullest possible extent with the Committee of Experts, in accordance with the provisions of the Charter of the United Nations.

"Paragraph 5

"The functions and rules of procedure of the Committee of Experts mentioned in the above paragraphs 2, 3, and 4 are set out in the Annex, which constitutes an integral part of the Convention.

"Paragraph 6

"The provisions of paragraph 3 of this section shall not be interpreted as affecting the rights and duties of Parties under the Charter of the United Nations, including bringing to the attention of the Security Council concerns about compliance with this Convention.

"ANNEX

"1. The Committee of Experts shall undertake to make appropriate findings of fact and provide expert views relevant to any problem raised pursuant to the Convention by the Party requesting the convening of the Committee. It may be requested by the Depositary to carry out investigations in case of complaints lodged by a Party to the Convention.

"2. The work of the Committee of Experts shall be organized in such a way as to permit it to perform the functions set forth in paragraph 1 of the Annex. In the process of such investigations, including fact-finding, every effort should be made to apply appropriate methods and procedures which are non-discriminatory and which do not unduly interfere with the internal affairs of other States or jeopardize their economic and social development.

"3. The Depositary shall:

- compile and maintain a list of qualified experts whose services may be available for the work of the Committee of Experts in accordance with paragraphs 1 and 2 of the Annex;

- base the list of qualified experts on proposals which had been made to him by Parties to the Convention;

- appoint members of the Committee of Experts from such a list with due regard to ensuring appropriate geographical balance and to the character of the question involved.

"4. The Depositary or his representative shall serve as the Chairman of the Committee.

"5. Each expert may be assisted at meetings by one or more advisers.

"6. Each expert shall have the right, through the Chairman, to request from States, and from international organizations, such information and assistance as the expert considers desirable for the accomplishment of the Committee's work. Each Party undertakes not to use deliberate concealment measures which impede verification of compliance with the Convention.

"ANNEX II

"Report of Contact Group B

"1. In accordance with the decision taken by the Ad Hoc Committee on Radiological Weapons at its 1st meeting on 17 March 1992, Contact Group B was re-established to continue consideration of the issues relevant to the prohibition of attacks against nuclear facilities.

"2. Contact Group B held five meetings from 23 March to 27 July 1992. In addition, the Coordinator held private consultations with some delegations.

"3. According to guidelines set out during the 1st meeting of the Ad Hoc Committee, Contact Group B used as a basis for its substantive work the Coordinator's record as contained in the Report of the Ad Hoc Committee to the Conference on Disarmament in 1991 (CD/1099, Annex II, Attachment). The Contact Group focused on the most basic elements of its work, that related to the scope of an agreement, and reviewed one by one the three existing alternatives. Two new alternatives were circulated as informal documents but were withdrawn as neither attracted wide support. A modification has been made under the 'Criteria' section, with the deletion of '[10^{18}]' in paragraph 1 (iii), (iv) and (v).

"4. The amended Coordinator's record is attached to the report and reflects the current stage of the Contact Group's consideration of the question.

"5. The Coordinator's record is not binding upon any delegation and its main purpose is to facilitate future consideration. It is recommended that it be appended to the Ad Hoc Committee's report to the Conference on Disarmament, as a basis for future work.

"*Attachment*

"POSSIBLE ELEMENTS RELEVANT TO THE PROHIBITION OF ATTACKS AGAINST NUCLEAR FACILITIES 1/ 2/

"I. SCOPE

"*Paragraph 1*

"*First alternative*

"Each State Party undertakes never under any circumstances to attack nuclear facilities covered by this Treaty.

"*Second alternative*

"Each State Party undertakes never under any circumstances to attack or to threaten to attack any nuclear facility.

"*Third alternative* 3/

"Each State Party undertakes never under any circumstances to release and disseminate radioactive substances by attacking nuclear facilities covered by this Treaty.

"*Paragraph 2*

"Each State Party undertakes not in any way to assist, encourage or induce any person, State, group of States, or international organization to act in contravention of this Treaty.

"1/ This record does not prejudice the eventual positions of delegations relating to the question of 'linkage', or the positions of delegations on the question of the need of having additional legal protection for nuclear facilities. As to the latter, a view was expressed that additional discussion on existing international agreements pertaining to the question is needed.

"2/ One delegation stated that, apart from the fact that the elements listed were controversial, the third alternative under Scope, paragraph 1 of the Definitions and the sections on Criteria and Special Marking were not essential to the elaboration of a convention. The section on Special Marking could have been recast within the section on Register. That was not, however, the case of the other elements mentioned, particularly the section on Criteria, which, in its opinion, seemed incompatible with the rule of *jus cogens* in article 2, paragraph 4, of the Charter of the United Nations.

"3/ Some delegations stated that the third alternative of Scope based on the criterion of mass destruction read in conjunction with the first alternative of paragraph 2 of Definitions, paragraph 1 of Criteria, paragraphs 1 to 3, the first alternative of paragraph 4, paragraphs 5 and 6 of Register as well as Special Marking in paragraph 1 under Other Main Elements constitute one complete and consistent set of elements to be included in a draft Treaty.

"II. DEFINITIONS

"Paragraph 1

"For the purposes of this Treaty, the term 'attack' means any act by a State which is designed to cause or causes, directly or indirectly:

"(i) any damage to, or the destruction of, a nuclear facility; or

"(ii) any interference, interruption, impediment, stoppage or breakdown in the operation of a nuclear facility; or

"(iii) any injury to, or the death of, any of the personnel of a nuclear facility.

"Paragraph 2

"First alternative

"For the purpose of this Treaty, the term 'nuclear facilities' means: [1]

"(i) Nuclear reactors;

"(ii) Intermediate spent fuel storages;

"(iii) Reprocessing plants;

"(iv) Waste deposits, including temporary waste storages;

"(v) Installations for production or use of important and intensive sources of gamma radiation; [2]

"which are included in a Register maintained by the Depositary.

"Second alternative

"A nuclear facility means a nuclear reactor or any other facility for the production, handling, treatment, processing or storage of nuclear fuel or other nuclear material.

"[1] A suggestion was made to add two further categories after '(iii) Reprocessing plants;'

"(iv) Nuclear fuel processing plants;

"(v) Uranium enrichment plants.

"[2] A view was expressed that this provision should be further refined.

"III. CRITERIA

"Paragraph 1

"The nuclear facilities mentioned in paragraph 2 of Definitions shall meet the following specifications: 1/

"(i) They shall be stationary on land; 2/ 3/

"(ii) Nuclear reactors; designed for a thermal power which could exceed 1 [10] Megawatt, shall have reached their first criticality and shall not have been decommissioned;

"(iii) Intermediate spent fuel storages; designed for storing radioactive material exceeding 10^{17} Bq;

"(iv) Reprocessing plants; designed for containing radioactive material exceeding 10^{17} Bq;

"(v) Waste deposits: containing radioactive material exceeding 10^{17} Bq;

"(vi) Installations for production or use of intensive sources of gamma radiation: designed to contain radioactive material whose gamma-radiation-dissipated power is equal to or greater than 6×10^{16} [10^{17}] Bq x Mev.

"Paragraph 2

"Additional specification suggested to the above specifications:

"Nuclear facilities mentioned in paragraph 2 of Definitions which are under the safeguards of the International Atomic Energy Agency are covered by the provision of this Treaty.

"1/ Views were expressed that nuclear facilities mentioned in paragraph 2 of Definitions shall be used for peaceful purposes and subject to IAEA safeguards.

"2/ Views were expressed that nuclear facilities stationed in territorial waters and the exclusive economic zones should also be considered.

"3/ Views were expressed that such nuclear facilities should not belong to weapons systems.

"IV. REGISTER

"Paragraph 1

"The Depositary shall establish, on the basis of initial communications by States Parties, as set out in paragraph 2 below, a comprehensive Register of nuclear facilities covered by this Treaty, and shall maintain this Register on the basis of subsequent communications on changes, as set out in paragraph 5 below.

"Certified copies of the Register shall be transmitted to each State Party ... days after entry into force of the Treaty.

"Certified copies of the Register in its entirety including all modifications shall be transmitted to each State Party at intervals of ... and be available to States Parties at any time in the offices of the Depositary.

"Paragraph 2

"States Parties requesting that nuclear facilities under their jurisdiction be included in the Register shall for each such facility communicate to the Depositary the following written information:

"(a) Identification of the type of nuclear facility;

"(b) Detailed specifications in accordance with paragraph 1 of Criteria of this Treaty;

"(c) Details on the exact geographical location of the nuclear facility.

"Paragraph 3 1/

"Upon receipt of a request for an inclusion in the Register, the Depositary shall without delay initiate procedures to confirm that the information contained in the request is correct:

"(a) Through, to the extent possible, documentation from the IAEA; and/or

"(b) Through other means, including a mission to the facility, when necessary.

"For the purpose of carrying out the procedures in paragraph 3 (a) above the Depositary may, as it deems necessary, enter into agreement with the IAEA.

"For the purpose of carrying out the procedures in paragraph 3 (b) above the Depositary shall, with the cooperation of States Party to the Treaty, compile and maintain a list of qualified experts, whose services could be made available to undertake such missions.

"1/ A view was expressed that this provision calls for further discussion.

"Paragraph 4

"First alternative

"The Depositary shall include the facility in the Register as well as the information required by paragraph 2 of this section, as soon as the information given in the request has been confirmed according to paragraph 3 above, and shall immediately notify States Parties to the Treaty of the aforesaid inclusion.

"Second alternative

"The Depositary shall include the facility in the Register as well as the information required by paragraph 2 of this section and shall immediately notify States Party to the Treaty of aforesaid inclusion.

"Paragraph 5

"A State Party shall inform the Depositary, within ... days/months, of any change in the information it had provided for inclusion in the Register. Upon the receipt of such information, the Depositary shall act, mutatis mutandi, in accordance with the procedures outlined in paragraphs 3 and 4 of this section.

"Paragraph 6 1/

"The costs for implementing these procedures shall be borne by the requesting State.

"V. VERIFICATION AND COMPLIANCE

"Paragraph 1

"States Parties to this Treaty shall make every possible effort to consult one another and to cooperate in solving any problems which may be raised in relation to the objectives of, or in the application of the provisions of, the Treaty.

Paragraph 2

"A State Party may lodge a complaint with the Depositary in case it believes that any other State Party is in breach of obligations deriving from this Treaty. Such complaint shall include all relevant information and all possible evidence supporting the validity of the complaint.

"1/ There was general agreement that the modalities as well as the placement of this provision should be further discussed.

"Paragraph 3

"First alternative

"Within ... days of the receipt of a complaint from any State Party the Depositary shall initiate an investigation to ascertain facts relevant to the complaint. Such an investigation may include a fact-finding mission to or at the site of the nuclear facility concerned and to any other site as may be appropriate. The fact-finding mission shall submit its findings to the Depositary within ... days.

"Second alternative

"Within ... days of the receipt of a complaint from any State Party the Depositary shall initiate an investigation to ascertain facts relevant to the complaint. Such an investigation shall include a fact-finding mission to or at the site of the nuclear facility concerned and to any other site as may be appropriate. The fact-finding mission shall submit its findings to the Depositary within ... days.

"Paragraph 4

"For purposes of carrying out a fact-finding mission the Depositary shall maintain a list of qualified experts, selected on as wide a geographical basis as possible, whose services may be available to undertake such missions.

"Paragraph 5

"States Parties undertake to cooperate in carrying out the investigation which the Depositary may initiate on a complaint received from any State Party. The Depositary shall inform the States Parties of the results of the investigation. A copy of the report on the investigation shall be transmitted also to the Security Council and the General Assembly of the United Nations.

"Paragraph 6

"First alternative

"The Depositary shall, upon request of a State Party, convene the Conference of States Parties to consider the report on the investigation as well as possible courses of action.

"Second alternative

"The Depositary shall immediately convene the Conference of States Parties to consider the report on the investigation and to adopt such measures as may be appropriate.

"Paragraph 7

"First alternative

"The continuing application of IAEA safeguards at a nuclear facility will form an essential part of the arrangements to verify that the facility is a peaceful nuclear facility within the meaning of the Treaty. 1/ 2/

"Second alternative

"The determination that a facility is and remains a peaceful nuclear facility within the meaning of the Treaty shall be made by the application of IAEA safeguards. 1/ 2/

"Third alternative

"The application of IAEA safeguards to a nuclear facility shall be of no relevance to the verification of compliance with obligations assumed by States Parties to this Treaty.

"VI. OTHER MAIN ELEMENTS

"Paragraph 1

"A State Party may mark its nuclear facilities included in the Register with Special Marking.

"Paragraph 2 3/ 4/ 5/

"States Parties undertake to provide or support assistance to any State Party harmed as a result of the violation of the Treaty.

"Paragraph 3

"Provisions of this Treaty are without prejudice to the obligations of State Parties undertaken in other international instruments relevant to the subject of this Treaty.

"Paragraph 4

"The Secretary-General shall be designated as Depositary of this Treaty."

"1/ It was stated that the application of IAEA safeguards was irrelevant to the objectives of this Treaty and that if anyway addressed, the issue belonged under the provisions for inclusion in the Register.

"2/ The view was expressed that the application of IAEA safeguards could not verify that a nuclear facility was a peaceful one but rather that nuclear material remained in peaceful use.

"3/ A view was expressed that the obligation of States Parties to provide assistance was limited to the radiological damage caused by an attack.

"4/ Views were expressed that the assistance to be provided or supported to any harmed State Party should not be limited to cases of violations by States Parties, but should also cover harm inflicted by attacks from States not party to the Convention.

"5/ Views were expressed that there should be no mandatory obligation of States Parties to provide assistance."

81. The Conference continued to consider the question of new types of weapons of mass destruction and new systems of such weapons at its plenary meetings. At the 606th plenary meeting on 21 January 1992, the President suggested that the Conference keep under review, with expert assistance, as appropriate, the prohibition of the development and manufacture of such weapons and their systems with a view to making, when necessary, recommendations on undertaking specific negotiations on the identified types of such weapons. This procedure met with no objection.

82. Some delegations belonging to the Group of East European and other States and some members of the Group of 21 maintained their support for the proposal to convene a group of qualified experts with a view to identifying any new types of weapons of mass destruction and making, as appropriate, recommendations on undertaking specific negotiations on the identified types of such weapons. Western delegations maintained their view that as no new types of weapons of mass destruction had been identified since 1948 nor was their existence imminent, the practice followed thus far of making plenary statements and holding informal meetings of the Conference from time to time was the most appropriate one to deal with this question.

H. Comprehensive Programme of Disarmament

83. Bearing in mind the conclusions reached by the Ad Hoc Committee on the Comprehensive Programme of Disarmament in its report to the Conference on Disarmament in 1989 to the effect that "it should resume work with a view to resolving the outstanding issues in the near future, when circumstances are more conducive to making progress in this regard", (CD/955, para. 7), the Conference continued to consider the question of the Comprehensive Programme of Disarmament at its plenary meetings.

84. In conformity with the decision taken by the Conference at its 1990 session on its improved and effective functioning (CD/1036), at the 612th plenary meeting on 13 February 1992, the President of the Conference appointed Ambassador Mounir Zahran of Egypt as Special Coordinator charged with seeking consensus on an appropriate organizational arrangement for agenda item 8. The Special Coordinator conducted informal consultations during the first and second parts of the 1992 session. He reported to the President that, as there had been no significant changes in the positions of delegations, those consultations had been inconclusive.

85. Twenty delegations of the Group of 21 reiterated the importance they attached to the conclusion of the Comprehensive Programme of Disarmament. They referred to resolution 46/38 B which had been adopted by the forty-sixth General Assembly by 123 votes in favour. They felt therefore that a majority of the international community clearly favoured the continuation and conclusion of the work on the Comprehensive Programme of Disarmament. The resolution recommended the conclusion of the work on the CPD which embraced issues which recently have been the subject of many important international gatherings. These included the role of the United Nations and the continuing relevance of its Charter; the efforts to ensure peace, stability and cooperation; the commitment to collective security; peace-keeping efforts;

nuclear disarmament and non-proliferation in all its aspects regarding weapons of mass destruction, to name but a few of those brought to the attention of the international community in the final statement of the Security Council summit held in New York on 31 January 1992 and which have already been examined in depth in the multilateral negotiations that have been devoted throughout the years to a CPD. For this reason, among others, the significance that the large majority of countries attributed to the Comprehensive Programme of Disarmament should not be mistakenly interpreted as the inertia of yesterday's priorities, but rather as the harbinger of a viable and practical way to approach the issues of today. The basic reasoning behind resolution 46/38 B, stated in preambular paragraphs, was that "a comprehensive programme of disarmament would provide an appropriate framework for the various multilateral, bilateral and unilateral initiatives and proposals put forward recently", and added: "Considering that the present international situation is conducive to a renewed effort towards the conclusion of the comprehensive programme of disarmament". Those delegations then referred to the conclusion drawn in the 1989 final report of the Conference on Disarmament to the General Assembly regarding the Comprehensive Programme of Disarmament that the Ad Hoc Committee agreed that it should resume work with a view to resolving the outstanding issues in the near future, when circumstances are more conducive to making progress in this regard. Reminders that the international climate had changed abounded and was perhaps more conducive to greater multilateral understanding and cooperation. Yet the Conference on Disarmament was not able to implement resolution 46/38 B which called for the re-establishment of the Ad Hoc Committee on the Comprehensive Programme of Disarmament and the solution of the outstanding issues and conclusion of those negotiations. Those delegations were convinced that a Comprehensive Programme of Disarmament would be beneficial to all States in seeking to establish an agreed framework for future multilateral disarmament negotiations.

86. Two delegations of the Group of 21 felt that the new international situation motivated a fresh look to be taken with regard to the agenda item on the Comprehensive Programme of Disarmament. The Conference on Disarmament should, according to these two delegations, consider, without prejudice, in which way the notions and ideas comprised in the Comprehensive Programme of Disarmament should be dealt with in the new international context.

87. At the same meeting, a nuclear-weapon State, not member of any group, expressed its support for the above proposal by 20 delegations of the Group of 21. It reiterated the importance it attached to agenda item 8. In the view of this delegation, in the present circumstances it was appropriate to resume work on the formulation of the Comprehensive Programme of Disarmament and to re-establish the Ad Hoc Committee in accordance with General Assembly resolution 46/38 B, so as to build on the texts already agreed to, with a view to resolving the outstanding issues.

88. The Western Group referred to resolution 46/38 B adopted in December 1991 by the forty-sixth General Assembly of the United Nations and invited delegates to take a close look at the voting pattern pertaining to this text. Whilst it was true that 123 votes were cast in favour, the group underlined that 6 countries expressed negative votes and no less than 32 others

abstained. It was also worth noting that these abstentions stemmed from delegations belonging to all groups. This result not only showed growing overall reservations about this subject but also underlined that present circumstances were no more conducive to making progress on the Comprehensive Programme of Disarmament than they were in previous years. Moreover, the group pointed out that of those who voted negatively or abstained, 18 were members of the Conference on Disarmament. This demonstrated clearly that there was no consensus on this question.

89. The Group of East European and other States considered that the proportion of votes cast for resolution 46/38 B during the last General Assembly of the United Nations had clearly indicated the different views which still exist on this question. The Group underlined that its position had not changed with respect to the conclusion reached by the Ad Hoc Committee on the Comprehensive Programme of Disarmament in 1989 on "resuming work with a view to resolving the outstanding issues in the near future, when circumstances are more conducive to making progress in this regard". The Group believed that the Conference on Disarmament itself was able to find various appropriate ways to transform all the positive international changes that have occurred into a constructive process aimed at successful negotiations on multilateral arms control and disarmament agreements in the future.

90. It was agreed that the organizational framework to deal with this agenda item, as in the case of other agenda items, be considered at the beginning of the 1993 session.

I. Transparency in Armaments

91. At the start of its 1992 session, the Conference, under the guidance of its President, held informal consultations on appropriate organizational arrangements to meet the requests made to it by the General Assembly in paragraphs 12, 13 and 15 of resolution 46/36 L, taking account of the information supplied by the Secretary-General in accordance with paragraph 14 of that resolution.

92. At its 617th plenary meeting, on 19 March 1992, the President of the Conference appointed Ambassador Mounir Zahran of Egypt as Special Coordinator to conduct consultations with all delegations on all aspects of the question before the Conference.

93. At its 622nd plenary meeting on 26 May 1992, the Special Coordinator submitted a draft decision on organizational arrangements in connection with General Assembly resolution 46/36 L, which was adopted by the Conference. It reads as follows (CD/1150):

> "The Conference on Disarmament, having considered the requests of the United Nations General Assembly included in its resolution 46/36 L, 'to address, as soon as possible, the question of the interrelated aspects of the excessive and destabilizing accumulation of arms, including military holdings and procurement through national production,

and to elaborate universal and non-discriminatory practical means to increase openness and transparency in this field; to address the problems of, and the elaboration of practical means to increase openness and transparency related to the transfer of high technology with military applications and to weapons of mass destruction, in accordance with existing legal instruments; and to include in its annual report to the General Assembly a report on its work on this issue', and bearing in mind the time-frame established in paragraph 11 (b) of said resolution, decides to add to its agenda for its 1992 session an item entitled 'Transparency in armaments', under which it can address those issues. The Conference on Disarmament further decides to include in its 1992 report to the United Nations General Assembly a section covering its work on this agenda item.

"The Conference also decides to address the agenda item in a series of informal meetings, under the chairmanship of Ambassador Mounir Zahran of Egypt.

"The Conference has taken due note of the request of the General Assembly to the Secretary-General of the United Nations in paragraph 11 (b) of resolution 46/36 L, to take into account the work of the Conference in his preparation of a report in 1994 on the continuing operation of the United Nations Register and its further development. Further, the Conference has also taken note of the request made to the Secretary-General of the United Nations in paragraph 14 of the same resolution to provide the Conference all relevant information, including, inter alia, views submitted to him by Member States and information provided under the United Nations system for the standardized reporting of military expenditures, as well as on the work of the Disarmament Commission under its agenda item entitled 'Objective information on military matters'."

94. In conformity with the above decision, at its 622nd plenary meeting on 26 May 1992, the Conference included the item "Transparency in armaments" in its 1992 agenda (CD/1119/Add.1).

95. Also in accordance with the above decision, the Conference held five informal meetings on the agenda item between 9 and 26 June 1992, under the chairmanship of Ambassador Mounir Zahran of Egypt.

96. At the first informal meeting, the Chairman, under his own responsibility, put forward guidelines for the conduct of the work of the informal meetings. Drawing from the terms of the requests made to the Conference in General Assembly resolution 46/36 L, he suggested that the informal meetings might address:

1. the question of interrelated aspects of the excessive and destabilizing accumulation of arms, including:

    (i) military holdings, and

    (ii) procurement through national production;

2. the elaboration of non-discriminatory practical means to increase openness and transparency in this field;

3. the problems and the elaboration of practical means to increase openness and transparency related to:

(i) transfer of high technology with military applications, and

(ii) weapons of mass destruction.

97. The Chairman stressed that his proposed guidelines were not binding on any delegation and that, in accordance with the practice of the Conference, any delegation wishing to do so might raise any subject relevant to the item. Moreover, the Chairman also pointed out that the formulation contained in the decision of the Conference (CD/1150) was general enough to allow for discussion of any matter relevant to the question of transparency in armaments. It was understood that the proposed guidelines would not prejudice the future work of the Conference on this item.

98. In accordance with the decision of the Conference at its 603rd plenary meeting on 22 August 1991, the informal meetings were open to all non-member States invited by the Conference, upon their request, to participate in its work. Several non-members participated in the informal meetings.

99. The following background documents were submitted during the annual session:

(a) Document CD/1113, dated 26 November 1991, submitted by the delegation of the United Kingdom of Great Britain and Northern Ireland, transmitting the official text of the Communiqué issued following the meeting held in London on 17 and 18 October 1991 between representatives of the five States permanent members of the United Nations Security Council concerning arms transfers and non-proliferation.

(b) CD/TIA/WP.1, dated 21 July 1992, submitted by the delegation of Cuba, entitled "Transparency in arms transfers".

(c) CD/TIA/WP.2, dated 28 July 1992, submitted by the delegation of France, entitled "Working paper on transparency in armaments".

(d) CD/TIA/CRP.1, dated 22 June 1992, submitted by the delegation of Japan, containing information on the "Tokyo Workshop on transparency in armaments", held from 1 to 3 June 1992.

(e) CD/TIA/INF.1, dated 19 June 1992, prepared by the Secretariat, entitled "Background paper pursuant to General Assembly resolution 46/36 L, 'Transparency in armaments'", containing a list of documents issued by the General Assembly and the Disarmament Commission, relevant to the questions set out in paragraph 14 of said resolution.

(f) CD/TIA/INF.1/Add.1, dated 3 August 1992, circulated by the Secretariat upon request of the informal meeting, containing the text of the "Guidelines and Recommendations for objective information on military matters", adopted by the United Nations Disarmament Commission at its substantive session in May 1992.

100. Many delegations expressed their views on the item in plenary meetings of the Conference throughout the 1992 session, as contained in its official records.

101. In paragraph 1 of this annual report, the work of the Conference is characterized as being of an exceptional nature in the 1992 session, as intensive efforts were made to conclude the chemical weapons convention. This fact also affected the Conference's work on the agenda item "Transparency in armaments". Thus, the discussions held in the informal meetings devoted to the item were limited to a preliminary exchange of views and no attempt was made to reach agreement on any of the ideas raised and proposals put forward. For the same reasons, the report of the Conference on this item for this year does not constitute a precedent for work on this item in future years. Owing to the preliminary character of the discussions, they have been reported below in the form of an outline of various subjects addressed at the informal meetings, rather than that of a narrative of the different points of views expressed.

102. The informal meetings addressed the following questions relating to organizational aspects of the Conference's consideration of transparency in armaments, and delegations gave views on what they felt could or should be the role of the Conference in this area. Varying views were expressed on:

- how the Conference should respond and the importance it should give to the requests made to it by resolution 46/36 L;

- the need for balance in the Conference's response to General Assembly requests made in connection with the Conference's agenda items;

- the overall time-frame for the Conference's consideration of the item, whether limited or indefinite;

- the modalities for the Conference's consideration of the item in future years, such as, in the context of informal meetings or in an ad hoc committee with a mandate and programme of work;

- the need for the Conference to reach a common understanding of its task in this field;

- the need for the Conference to agree on terminology which it would be using, e.g., "international transfer of conventional arms", "excessive and destabilizing accumulation of arms", "military holdings" and "procurement through national production";

- the possibility that the General Assembly might clarify terminological issues related to the question in order to facilitate the work of the Conference.

103. It was noted that openness and transparency in armaments had already been the subject of various agreements among States at the regional and bilateral level, as well as at the multilateral level. In order for the Conference to have at its disposal as exhaustive an inventory as possible, summarizing the existing measures or agreements at the multilateral, regional and bilateral level, it was agreed that the Secretariat would draw up such a list and that delegations wishing to do so may include in that list any measure they feel would be relevant to the subject.

104. Attention was drawn to the "Guidelines and Recommendations for objective information on military matters", the text of which was adopted on a consensus basis by the Disarmament Commission at its substantive session in 1992 and which constituted an important element for the consideration of the agenda item "Transparency in armaments" in the Conference. It was agreed that the text of the "Guidelines" be circulated to the Conference (see CD/TIA/INF.1/Add.1).

105. Varying views were expressed on the concept of transparency in armaments itself. Some of the issues raised in this regard were:

- transparency in arms transfers as a part of a global disarmament process;

- transparency as a means to diminish inter-State tensions caused by misperceptions of intentions;

- the need for equal and balanced rights and responsibilities of States participating in a transparency regime;

- the need for transparency to be pursued in a fair, reasonable, comprehensive and balanced manner;

- the need for a transparency regime to restrict the indiscriminate sale of arms;

- transparency in armaments in the context of the peaceful settlement of conflicts;

- the need to incorporate research and development in a transparency in arms arrangement;

- the need to include the financial aspects of the arms trade to enhance transparency;

- the limits to openness and transparency, including, most particularly, the need to preserve the sovereign right of any State to individual or collective self-defence;

- the need to avoid the misuse of any information exchanged so as not to threaten the security of small or weaker countries;

- the need to avoid the abuse of commercial confidentiality;

- the need to avoid vital defence information falling into the hands of States not participating in any transparency regime;

- whether transparency in armaments was sufficient in and of itself in the solution of regional conflicts;

- the need for the countries that are the biggest suppliers of armaments to adopt genuine and effective measures of self-restraint, including substantial reductions in arms exports, so as to create favourable conditions for the political settlement of regional conflicts;

- the eventual verification or monitoring of a transparency regime;

- the overall issue of illicit arms trading, taking into account General Assembly resolution 46/36 H;

- the interrelationship between the emerging systems of transparency in armaments agreed at the multilateral, regional and bilateral level.

106. Delegations referred to the following problems and issues with respect to the question of the interrelated aspects of the excessive and destabilizing accumulation of arms, including military holdings and procurement through national production, and varying views were expressed on them:

- the need to take account of the inherent right to individual or collective self-defence;

- the expansion of the United Nations Register of Conventional Arms to include information on military holdings and procurement through national production;

- the difficulties that some States might have in reporting this further information on the Register;

- the need to expand the Register on a step-by-step basis;

- the need for the Conference to take account of the report of the Panel of Governmental Technical Experts considering the expansion of the Register;

- the need to keep the provision of this type of information on a voluntary basis;

- the need to ensure there is no link between the supply of information and decisions on economic and technological assistance;

- the need to report transfers of know-how and technical services linked to production, operation or maintenance of conventional arms, foreign technical support, transfers of plant technology, certain raw materials and the construction by foreign contractors of installations necessary for the functioning, maintenance or production of such arms;
- that the Conference take up the questions of the comparability of statistics, the nationality criteria for production facilities and the legal means used by Governments to obtain information from private sources;
- that the Conference consider an exchange of information on the organization and structure of military forces and of military budgets;
- that the Conference could play an important role in the movement towards the evaluation of information exchanged, leading eventually to a legally binding exchange of information linking suppliers and recipients.

107. The sensitive nature of the problems of openness and transparency related to the transfer of high technology with military applications was underlined, as well as the need to handle this type of transfer in a manner different from conventional weapons.

108. In this regard, delegations referred to the following problems and issues and varying views were expressed on them:

- the need for a definition;
- that technology in and of itself was neutral;
- the dual-use nature of high technology;
- the need for freedom of access to high technology by developing countries;
- the existing arrangements for the harmonization of export control policies dealing with the transfer of high technology with military applications, such as, the Nuclear Suppliers Group, the Missile Technology Control Regime and the Australia Group;
- the repercussions on the economies of both supplier and recipient countries;
- whether transfers of high technology would include those with application to conventional weapons or weapons of mass destruction or both;
- that the Conference conduct in-depth studies to define the scope of transparency in the area of high technology with military applications and to identify the current practices governing States' activities in this field;

- that the Conference examine the national rules and legislation governing the activities of participants in the existing arrangements for the harmonization of export control policies, as well as the export control procedures in place to implement the legislation with a view to helping States without such legislation to adopt such legislation, and to promoting cooperation in a framework ensuring security;
- that the Conference focus on the establishment of universal, transparent and predictable non-proliferation norms, principles or "rules" for the transfer of high technology, as opposed to the existing unilateral arrangements for the harmonization of export control policies which some States consider to be discriminatory;
- that the Conference take account of the initiative to study scientific and technological developments and their impact on international security presented by one delegation in 1988 at the Third Special Session on Disarmament which was an attempt to deal with the issue in a universally transparent manner;
- that the Conference take account of efforts already under way in this field, such as under the auspices of IAEA, which is studying the possibility of the establishment of a Register on the transfer of nuclear material and equipment or the studies made by the Organization for Economic Co-operation and Development.

109. Delegations attached importance to problems of openness and transparency related to weapons of mass destruction. Delegations referred to the following problems and issues and varying views were expressed on them:

- increasing transparency as regards the nuclear-weapon States;
- the clandestine production of weapons of mass destruction;
- increasing transparency in non-States Parties to existing legal instruments;
- the elaboration of universal and non-discriminatory means in this field;
- the relevance or the lack of relevance to the question of the Treaty on the Non-Proliferation of Nuclear Weapons, the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, and the future Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, specifically the provisions therein relating to the non-transfer of such weapons or their related equipment, and related arrangements with respect to exchanges of information among States Parties to these agreements;

- the need for the expansion of the United Nations Register to include this type of information exchange in order to reduce its discriminatory aspects.

110. Delegations forwarded ideas as to what the practical means to increase openness and transparency might be, or might aim towards, and varying views were expressed on them:

- for the Conference to develop such practical means beyond the scope of the United Nations Register;
- the elaboration of means to create conditions towards an international atmosphere whereby States would demonstrate their readiness to cooperate to ensure openness and transparency;
- the development of internationally applicable regulations to enable States to exercise more effective control over arms transfers;
- the elimination of semi-legal and fraudulent arms transfers through international cooperation;
- the monitoring of military-related license transfers, including of dual-purpose techniques and technologies;
- the presence of a group of international experts during the process of destruction of nuclear weapons;
- for the discussions in the Conference on the United Nations Register to be guided strictly by the terms of resolution 46/36 L;
- for the nuclear-weapon States to put aside their policy of not declaring nuclear weapons on ships;
- the elaboration of guidelines to regulate the transfer of high technology with military applications;
- the elaboration of legally-binding and institutionalized regulations for transparency in the armaments outlined in paragraphs 12 and 13 of resolution 46/36 L;
- for discussions in the Conference to take duly into account that references were made to the ambiguities of some terms of resolution 46/36 L and of its partial and discriminatory aspects;
- ways to encourage States to participate in the implementation of the Register;
- the establishment of a complementary register to collate information being obtained under existing arrangements relevant to weapons of mass destruction;

- the agreement on a code of conduct by supplier and recipient States governing illicit arms trading, taking into account General Assembly resolution 46/36 H;

- the expansion of the Register to cover other items, such as inter alia arms production, research and development activities, storage conditions, transfers of high technology of a military nature to other countries, and any previous information relating to weapons of mass destruction including nuclear weapons;

- to ensure that emphasis is placed on the universal and non-discriminatory aspects of the Register, that it be kept simple to promote universality, and that it be expanded on a step-by-step basis.

111. It was generally agreed that the Conference's discussions in informal meetings this year on transparency in armaments were useful and that the organizational framework to deal with this item, as in the case of other items on its agenda, be taken up at the beginning of the Conference's 1993 session.

J. Consideration of Other Areas Dealing with the Cessation of the Arms Race and Disarmament and Other Relevant Measures

112. During its 1992 session, the Conference also had before it the following documents:

(a) Document CD/1133, dated 21 February 1992, submitted by the delegation of Canada, transmitting the Arms Control Verification Paper No. 9 entitled "Verifying Limitations on Military Personnel".

(b) Document CD/1137, dated 27 February 1992, submitted by the delegation of Canada, transmitting the Arms Control Verification Study No. 4 entitled "Verification to the Year 2000".

(c) Document CD/1138, dated 27 February 1992, submitted by the delegation of Canada, transmitting a Publication entitled "Bibliography on Arms Control Verification: 1962-1991".

113. In its resolution 44/116 O of 15 December 1989, the General Assembly requested the Conference on Disarmament, in consultation with the States parties to the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and other Weapons of Mass Destruction on the Sea-bed and the Ocean Floor and in the Subsoil Thereof, and taking into account existing proposals and any relevant technological developments, to proceed promptly with consideration of further measures in the field of disarmament for the prevention of an arms race on the sea-bed and the ocean floor and the subsoil thereof. In that same resolution, the Conference was also requested to report on its consideration of the measures outlined above at the forty-seventh session of the General Assembly.

114. In response to the above requests, the Conference decided to hold an informal meeting on 23 July 1992. The Conference noted that the Treaty continued to be a significant arms limitation measure and that no technological developments had been brought to its attention that might affect the operation of the Treaty or would require the Conference to take action. However, the Conference also noted the importance of continued monitoring of technological developments relevant to the Treaty.

115. It was also recalled that the Third Review Conference of the Sea-bed Treaty had requested the Secretary-General of the United Nations to report by 1992 on technological developments relevant to the Treaty and to verification of compliance with the Treaty, including dual-purpose technologies for peaceful and specified military ends. The hope was expressed that all States Parties, and in particular, the three Depositary Governments of the Treaty, would present such reports in order to allow them to judge the appropriate time for the next review Conference and to assess the proper functioning of the Treaty. The view was expressed that nothing had happened since the adoption of the Final Declaration of the Third Review Conference in 1989 that would require at this stage the setting of a date for the next review conference.

116. The steps recently taken by three of the nuclear-weapon States towards a significant decrease in their nuclear weapons on board naval vessels were welcomed. Furthermore, the agreement reached in the START Treaty not to emplace strategic nuclear weapons systems on the sea-bed in territorial seas, outside the zone of application of the Sea-bed Treaty, was also welcomed.

117. Several delegations made reference to the confirmation by all States Parties to the Sea-bed Treaty, contained in the Final Declaration of its Third Review Conference in 1989, that they had not emplaced any nuclear weapons or other weapons of mass destruction on the sea-bed outside the zone of application of the Treaty as defined by its Article II and had no intention to do so. The view was expressed that this confirmation was an important contribution to the achievement of a "shore-to-shore" concept for the prohibition of all nuclear weapons and other weapons of mass destruction on the sea-bed. One delegation of a Depositary State expressed its continued support for the provisions of Article II which define the zone of application, and its opposition to any formal extension of the scope of the Treaty to territorial seas.

118. The view was expressed that the discussion in the informal meeting on this item had been a useful contribution to the monitoring of the functioning of the Treaty.

K. Consideration and adoption of the Annual Report of the Conference and any other Report as Appropriate to the General Assembly of the United Nations

119. The annual report to the forty-seventh session of the General Assembly of the United Nations, as adopted by the Conference on 3 September 1992, is transmitted by the President on behalf of the Conference on Disarmament.

Michel Servais
Belgium
President of the Conference

APPENDIX I

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PREAMBLE

The States Parties to this Convention,

Determined to act with a view to achieving effective progress towards general and complete disarmament under strict and effective international control, including the prohibition and elimination of all types of weapons of mass destruction,

Desiring to contribute to the realization of the purposes and principles of the Charter of the United Nations,

Recalling that the General Assembly of the United Nations has repeatedly condemned all actions contrary to the principles and objectives of the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on 17 June 1925 (the Geneva Protocol of 1925),

Recognizing that this Convention reaffirms principles and objectives of and obligations assumed under the Geneva Protocol of 1925, and the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction signed at London, Moscow and Washington on 10 April 1972,

Bearing in mind the objective contained in Article IX of the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction,

Determined for the sake of all mankind, to exclude completely the possibility of the use of chemical weapons, through the implementation of the provisions of this Convention, thereby complementing the obligations assumed under the Geneva Protocol of 1925,

Recognizing the prohibition, embodied in the pertinent agreements and relevant principles of international law, of the use of herbicides as a method of warfare,

Considering that achievements in the field of chemistry should be used exclusively for the benefit of mankind,

Desiring to promote free trade in chemicals as well as international cooperation and exchange of scientific and technical information in the field of chemical activities for purposes not prohibited under this Convention in order to enhance the economic and technological development of all States Parties,

Convinced that the complete and effective prohibition of the development, production, acquisition, stockpiling, retention, transfer and use of chemical weapons, and their destruction, represent a necessary step towards the achievement of these common objectives,

Have agreed as follows:

ARTICLE I

GENERAL OBLIGATIONS

1. Each State Party to this Convention undertakes never under any circumstances:

(a) To develop, produce, otherwise acquire, stockpile or retain chemical weapons, or transfer, directly or indirectly, chemical weapons to anyone;

(b) To use chemical weapons;

(c) To engage in any military preparations to use chemical weapons;

(d) To assist, encourage or induce, in any way, anyone to engage in any activity prohibited to a State Party under this Convention.

2. Each State Party undertakes to destroy chemical weapons it owns or possesses, or that are located in any place under its jurisdiction or control, in accordance with the provisions of this Convention.

3. Each State Party undertakes to destroy all chemical weapons it abandoned on the territory of another State Party, in accordance with the provisions of this Convention.

4. Each State Party undertakes to destroy any chemical weapons production facilities it owns or possesses, or that are located in any place under its jurisdiction or control, in accordance with the provisions of this Convention.

5. Each State Party undertakes not to use riot control agents as a method of warfare.

ARTICLE II

DEFINITIONS AND CRITERIA

For the purposes of this Convention:

1. "Chemical Weapons" means the following, together or separately:

(a) Toxic chemicals and their precursors, except where intended for purposes not prohibited under this Convention, as long as the types and quantities are consistent with such purposes;

(b) Munitions and devices, specifically designed to cause death or other harm through the toxic properties of those toxic chemicals specified in subparagraph (a), which would be released as a result of the employment of such munitions and devices;

(c) Any equipment specifically designed for use directly in connection with the employment of munitions and devices specified in subparagraph (b).

2. "Toxic Chemical" means:

Any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals. This includes all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere.

(For the purpose of implementing this Convention, toxic chemicals which have been identified for the application of verification measures are listed in Schedules contained in the Annex on Chemicals.)

3. "Precursor" means:

Any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical. This includes any key component of a binary or multicomponent chemical system.

(For the purpose of implementing this Convention, precursors which have been identified for the application of verification measures are listed in Schedules contained in the Annex on Chemicals.)

4. "Key Component of Binary or Multicomponent Chemical Systems" (hereinafter referred to as "key component") means:

The precursor which plays the most important role in determining the toxic properties of the final product and reacts rapidly with other chemicals in the binary or multicomponent system.

5. "Old Chemical Weapons" means:

(a) Chemical weapons which were produced before 1925; or

(b) Chemical weapons produced in the period between 1925 and 1946 that have deteriorated to such extent that they can no longer be used as chemical weapons.

6. "Abandoned Chemical Weapons" means:

Chemical weapons, including old chemical weapons, abandoned by a State after 1 January 1925 on the territory of another State without the consent of the latter.

7. "Riot Control Agent" means:

Any chemical not listed in a Schedule, which can produce rapidly in humans sensory irritation or disabling physical effects which disappear within a short time following termination of exposure.

8. "Chemical Weapons Production Facility":

(a) Means any equipment, as well as any building housing such equipment, that was designed, constructed or used at any time since 1 January 1946:

- (i) As part of the stage in the production of chemicals ("final technological stage") where the material flows would contain, when the equipment is in operation:
  - (1) Any chemical listed in Schedule 1 in the Annex on Chemicals; or
  - (2) Any other chemical that has no use, above 1 tonne per year on the territory of a State Party or in any other place under the jurisdiction or control of a State Party, for purposes not prohibited under this Convention, but can be used for chemical weapons purposes;

or

- (ii) For filling chemical weapons, including, inter alia, the filling of chemicals listed in Schedule 1 into munitions, devices or bulk storage containers; the filling of chemicals into containers that form part of assembled binary munitions and devices or into chemical submunitions that form part of assembled unitary munitions and devices, and the loading of the containers and chemical submunitions into the respective munitions and devices;

(b) Does not mean:

(i) Any facility having a production capacity for synthesis of chemicals specified in subparagraph (a) (i) that is less than 1 tonne;

(ii) Any facility in which a chemical specified in subparagraph (a) (i) is or was produced as an unavoidable by-product of activities for purposes not prohibited under this Convention, provided that the chemical does not exceed 3 per cent of the total product and that the facility is subject to declaration and inspection under the Annex on Implementation and Verification (hereinafter referred to as "Verification Annex"); or

(iii) The single small-scale facility for production of chemicals listed in Schedule 1 for purposes not prohibited under this Convention as referred to in Part VI of the Verification Annex.

9. "Purposes Not Prohibited Under this Convention" means:

(a) Industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes;

(b) Protective purposes, namely those purposes directly related to protection against toxic chemicals and to protection against chemical weapons;

(c) Military purposes not connected with the use of chemical weapons and not dependent on the use of the toxic properties of chemicals as a method of warfare;

(d) Law enforcement including domestic riot control purposes.

10. "Production Capacity" means:

The annual quantitative potential for manufacturing a specific chemical based on the technological process actually used or, if the process is not yet operational, planned to be used at the relevant facility. It shall be deemed to be equal to the nameplate capacity or, if the nameplate capacity is not available, to the design capacity. The nameplate capacity is the product output under conditions optimized for maximum quantity for the production facility, as demonstrated by one or more test-runs. The design capacity is the corresponding theoretically calculated product output.

11. "Organization" means the Organization for the Prohibition of Chemical Weapons established pursuant to Article VIII of this Convention.

12. For the purposes of Article VI:

(a) "Production" of a chemical means its formation through chemical reaction;

(b) "Processing" of a chemical means a physical process, such as formulation, extraction and purification, in which a chemical is not converted into another chemical;

(c) "Consumption" of a chemical means its conversion into another chemical via a chemical reaction.

ARTICLE III

DECLARATIONS

1. Each State Party shall submit to the Organization, not later than 30 days after this Convention enters into force for it, the following declarations, in which it shall:

(a) With respect to chemical weapons:

(i) Declare whether it owns or possesses any chemical weapons, or whether there are any chemical weapons located in any place under its jurisdiction or control;

(ii) Specify the precise location, aggregate quantity and detailed inventory of chemical weapons it owns or possesses, or that are located in any place under its jurisdiction or control, in accordance with Part IV (A), paragraphs 1 to 3, of the Verification Annex, except for those chemical weapons referred to in sub-subparagraph (iii);

(iii) Report any chemical weapons on its territory that are owned and possessed by another State and located in any place under the jurisdiction or control of another State, in accordance with Part IV (A), paragraph 4, of the Verification Annex;

(iv) Declare whether it has transferred or received, directly or indirectly, any chemical weapons since 1 January 1946 and specify the transfer or receipt of such weapons, in accordance with Part IV (A), paragraph 5, of the Verification Annex;

(v) Provide its general plan for destruction of chemical weapons that it owns or possesses, or that are located in any place under its jurisdiction or control, in accordance with Part IV (A), paragraph 6, of the Verification Annex;

(b) With respect to old chemical weapons and abandoned chemical weapons:

(i) Declare whether it has on its territory old chemical weapons and provide all available information in accordance with Part IV (B), paragraph 3, of the Verification Annex;

(ii) Declare whether there are abandoned chemical weapons on its territory and provide all available information in accordance with Part IV (B), paragraph 8, of the Verification Annex;

(iii) Declare whether it has abandoned chemical weapons on the territory of other States and provide all available information in accordance with Part IV (B), paragraph 10, of the Verification Annex;

(c) With respect to chemical weapons production facilities:

(i) Declare whether it has or has had any chemical weapons production facility under its ownership or possession, or that is or has been located in any place under its jurisdiction or control at any time since 1 January 1946;

(ii) Specify any chemical weapons production facility it has or has had under its ownership or possession or that is or has been located in any place under its jurisdiction or control at any time since 1 January 1946, in accordance with Part V, paragraph 1, of the Verification Annex, except for those facilities referred to in sub-subparagraph (iii);

(iii) Report any chemical weapons production facility on its territory that another State has or has had under its ownership and possession and that is or has been located in any place under the jurisdiction or control of another State at any time since 1 January 1946, in accordance with Part V, paragraph 2, of the Verification Annex;

(iv) Declare whether it has transferred or received, directly or indirectly, any equipment for the production of chemical weapons since 1 January 1946 and specify the transfer or receipt of such equipment, in accordance with Part V, paragraphs 3 to 5, of the Verification Annex;

(v) Provide its general plan for destruction of any chemical weapons production facility it owns or possesses, or that is located in any place under its jurisdiction or control, in accordance with Part V, paragraph 6, of the Verification Annex;

(vi) Specify actions to be taken for closure of any chemical weapons production facility it owns or possesses, or that is located in any place under its jurisdiction or control, in accordance with Part V, paragraph 1 (i), of the Verification Annex;

(vii) Provide its general plan for any temporary conversion of any chemical weapons production facility it owns or possesses, or that is located in any place under its jurisdiction or control, into a chemical weapons destruction facility, in accordance with Part V, paragraph 7, of the Verification Annex;

(d) With respect to other facilities:

Specify the precise location, nature and general scope of activities of any facility or establishment under its ownership or possession, or located in any place under its jurisdiction or control, and that has been designed, constructed or used since 1 January 1946 primarily for development of chemical weapons. Such declaration shall include, inter alia, laboratories and test and evaluation sites;

(e) With respect to riot control agents: Specify the chemical name, structural formula and Chemical Abstracts Service (CAS) registry number, if assigned, of each chemical it holds for riot control purposes. This declaration shall be updated not later than 30 days after any change becomes effective.

2. The provisions of this Article and the relevant provisions of Part IV of the Verification Annex shall not, at the discretion of a State Party, apply to chemical weapons buried on its territory before 1 January 1977 and which remain buried, or which had been dumped at sea before 1 January 1985.

ARTICLE IV

CHEMICAL WEAPONS

1. The provisions of this Article and the detailed procedures for its implementation shall apply to all chemical weapons owned or possessed by a State Party, or that are located in any place under its jurisdiction or control, except old chemical weapons and abandoned chemical weapons to which Part IV (B) of the Verification Annex applies.

2. Detailed procedures for the implementation of this Article are set forth in the Verification Annex.

3. All locations at which chemical weapons specified in paragraph 1 are stored or destroyed shall be subject to systematic verification through on-site inspection and monitoring with on-site instruments, in accordance with Part IV (A) of the Verification Annex.

4. Each State Party shall, immediately after the declaration under Article III, paragraph 1 (a), has been submitted, provide access to chemical weapons specified in paragraph 1 for the purpose of systematic verification of the declaration through on-site inspection. Thereafter, each State Party shall not remove any of these chemical weapons, except to a chemical weapons destruction facility. It shall provide access to such chemical weapons, for the purpose of systematic on-site verification.

5. Each State Party shall provide access to any chemical weapons destruction facilities and their storage areas, that it owns or possesses, or that are located in any place under its jurisdiction or control, for the purpose of systematic verification through on-site inspection and monitoring with on-site instruments.

6. Each State Party shall destroy all chemical weapons specified in paragraph 1 pursuant to the Verification Annex and in accordance with the agreed rate and sequence of destruction (hereinafter referred to as "order of destruction"). Such destruction shall begin not later than two years after this Convention enters into force for it and shall finish not later than 10 years after entry into force of this Convention. A State Party is not precluded from destroying such chemical weapons at a faster rate.

7. Each State Party shall:

(a) Submit detailed plans for the destruction of chemical weapons specified in paragraph 1 not later than 60 days before each annual destruction period begins, in accordance with Part IV (A), paragraph 29, of the Verification Annex; the detailed plans shall encompass all stocks to be destroyed during the next annual destruction period;

(b) Submit declarations annually regarding the implementation of its plans for destruction of chemical weapons specified in paragraph 1, not later than 60 days after the end of each annual destruction period; and

(c) Certify, not later than 30 days after the destruction process has been completed, that all chemical weapons specified in paragraph 1 have been destroyed.

8. If a State ratifies or accedes to this Convention after the 10 year period for destruction set forth in paragraph 6, it shall destroy chemical weapons specified in paragraph 1 as soon as possible. The order of destruction and procedures for stringent verification for such a State Party shall be determined by the Executive Council.

9. Any chemical weapons discovered by a State Party after the initial declaration of chemical weapons shall be reported, secured and destroyed in accordance with Part IV (A) of the Verification Annex.

10. Each State Party, during transportation, sampling, storage and destruction of chemical weapons, shall assign the highest priority to ensuring the safety of people and to protecting the environment. Each State Party shall transport, sample, store and destroy chemical weapons in accordance with its national standards for safety and emissions.

11. Any State Party which has on its territory chemical weapons that are owned or possessed by another State, or that are located in any place under the jurisdiction or control of another State, shall make the fullest efforts to ensure that these chemical weapons are removed from its territory not later than one year after this Convention enters into force for it. If they are not removed within one year, the State Party may request the Organization and other States Parties to provide assistance in the destruction of these chemical weapons.

12. Each State Party undertakes to cooperate with other States Parties that request information or assistance on a bilateral basis or through the Technical Secretariat regarding methods and technologies for the safe and efficient destruction of chemical weapons.

13. In carrying out verification activities pursuant to this Article and Part IV (A) of the Verification Annex, the Organization shall consider measures to avoid unnecessary duplication of bilateral or multilateral agreements on verification of chemical weapons storage and their destruction among States Parties.

To this end, the Executive Council shall decide to limit verification to measures complementary to those undertaken pursuant to such a bilateral or multilateral agreement, if it considers that:

(a) Verification provisions of such an agreement are consistent with the verification provisions of this Article and Part IV (A) of the Verification Annex;

(b) Implementation of such an agreement provides for sufficient assurance of compliance with the relevant provisions of this Convention; and

(c) Parties to the bilateral or multilateral agreement keep the Organization fully informed about their verification activities.

14. If the Executive Council takes a decision pursuant to paragraph 13, the Organization shall have the right to monitor the implementation of the bilateral or multilateral agreement.

15. Nothing in paragraphs 13 and 14 shall affect the obligation of a State Party to provide declarations pursuant to Article III, this Article and Part IV (A) of the Verification Annex.

16. Each State Party shall meet the costs of destruction of chemical weapons it is obliged to destroy. It shall also meet the costs of verification of storage and destruction of these chemical weapons unless the Executive Council decides otherwise. If the Executive Council decides to limit verification measures of the Organization pursuant to paragraph 13, the costs of complementary verification and monitoring by the Organization shall be paid in accordance with the United Nations scale of assessment, as specified in Article VIII, paragraph 7.

17. The provisions of this Article and the relevant provisions of Part IV of the Verification Annex shall not, at the discretion of a State Party, apply to chemical weapons buried on its territory before 1 January 1977 and which remain buried, or which had been dumped at sea before 1 January 1985.

ARTICLE V

CHEMICAL WEAPONS PRODUCTION FACILITIES

1. The provisions of this Article and the detailed procedures for its implementation shall apply to any and all chemical weapons production facilities owned or possessed by a State Party, or that are located in any place under its jurisdiction or control.

2. Detailed procedures for the implementation of this Article are set forth in the Verification Annex.

3. All chemical weapons production facilities specified in paragraph 1 shall be subject to systematic verification through on-site inspection and monitoring with on-site instruments in accordance with Part V of the Verification Annex.

4. Each State Party shall cease immediately all activity at chemical weapons production facilities specified in paragraph 1, except activity required for closure.

5. No State Party shall construct any new chemical weapons production facilities or modify any existing facilities for the purpose of chemical weapons production or for any other activity prohibited under this Convention.

6. Each State Party shall, immediately after the declaration under Article III, paragraph 1 (c), has been submitted, provide access to chemical weapons production facilities specified in paragraph 1, for the purpose of systematic verification of the declaration through on-site inspection.

7. Each State Party shall:

(a) Close, not later than 90 days after this Convention enters into force for it, all chemical weapons production facilities specified in paragraph 1, in accordance with Part V of the Verification Annex, and give notice thereof; and

(b) Provide access to chemical weapons production facilities specified in paragraph 1, subsequent to closure, for the purpose of systematic verification through on-site inspection and monitoring with on-site instruments in order to ensure that the facility remains closed and is subsequently destroyed.

8. Each State Party shall destroy all chemical weapons production facilities specified in paragraph 1 and related facilities and equipment, pursuant to the Verification Annex and in accordance with an agreed rate and sequence of destruction (hereinafter referred to as "order of destruction"). Such destruction shall begin not later than one year after this Convention enters into force for it, and shall finish not later than 10 years after entry into force of this Convention. A State Party is not precluded from destroying such facilities at a faster rate.

9. Each State Party shall:

(a) Submit detailed plans for destruction of chemical weapons production facilities specified in paragraph 1, not later than 180 days before the destruction of each facility begins;

(b) Submit declarations annually regarding the implementation of its plans for the destruction of all chemical weapons production facilities specified in paragraph 1, not later than 90 days after the end of each annual destruction period; and

(c) Certify, not later than 30 days after the destruction process has been completed, that all chemical weapons production facilities specified in paragraph 1 have been destroyed.

10. If a State ratifies or accedes to this Convention after the 10-year period for destruction set forth in paragraph 8, it shall destroy chemical weapons production facilities specified in paragraph 1 as soon as possible. The order of destruction and procedures for stringent verification for such a State Party shall be determined by the Executive Council.

11. Each State Party, during the destruction of chemical weapons production facilities, shall assign the highest priority to ensuring the safety of people and to protecting the environment. Each State Party shall destroy chemical weapons production facilities in accordance with its national standards for safety and emissions.

12. Chemical weapons production facilities specified in paragraph 1 may be temporarily converted for destruction of chemical weapons in accordance with Part V, paragraphs 18 to 25, of the Verification Annex. Such a converted facility must be destroyed as soon as it is no longer in use for destruction of chemical weapons but, in any case, not later than 10 years after entry into force of this Convention.

13. A State Party may request, in exceptional cases of compelling need, permission to use a chemical weapons production facility specified in paragraph 1 for purposes not prohibited under this Convention. Upon the recommendation of the Executive Council, the Conference of the States Parties shall decide whether or not to approve the request and shall establish the conditions upon which approval is contingent in accordance with Part V, Section D, of the Verification Annex.

14. The chemical weapons production facility shall be converted in such a manner that the converted facility is not more capable of being reconverted into a chemical weapons production facility than any other facility used for industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes not involving chemicals listed in Schedule 1.

15. All converted facilities shall be subject to systematic verification through on-site inspection and monitoring with on-site instruments in accordance with Part V, Section D, of the Verification Annex.

16. In carrying out verification activities pursuant to this Article and Part V of the Verification Annex, the Organization shall consider measures to avoid unnecessary duplication of bilateral or multilateral agreements on verification of chemical weapons production facilities and their destruction among States Parties.

To this end, the Executive Council shall decide to limit the verification to measures complementary to those undertaken pursuant to such a bilateral or multilateral agreement, if it considers that:

(a) Verification provisions of such an agreement are consistent with the verification provisions of this Article and Part V of the Verification Annex;

(b) Implementation of the agreement provides for sufficient assurance of compliance with the relevant provisions of this Convention; and

(c) Parties to the bilateral or multilateral agreement keep the Organization fully informed about their verification activities.

17. If the Executive Council takes a decision pursuant to paragraph 16, the Organization shall have the right to monitor the implementation of the bilateral or multilateral agreement.

18. Nothing in paragraphs 16 and 17 shall affect the obligation of a State Party to make declarations pursuant to Article III, this Article and Part V of the Verification Annex.

19. Each State Party shall meet the costs of destruction of chemical weapons production facilities it is obliged to destroy. It shall also meet the costs of verification under this Article unless the Executive Council decides otherwise. If the Executive Council decides to limit verification measures of the Organization pursuant to paragraph 16, the costs of complementary verification and monitoring by the Organization shall be paid in accordance with the United Nations scale of assessment, as specified in Article VIII, paragraph 7.

ARTICLE VI

ACTIVITIES NOT PROHIBITED UNDER THIS CONVENTION

1. Each State Party has the right, subject to the provisions of this Convention, to develop, produce, otherwise acquire, retain, transfer and use toxic chemicals and their precursors for purposes not prohibited under this Convention.

2. Each State Party shall adopt the necessary measures to ensure that toxic chemicals and their precursors are only developed, produced, otherwise acquired, retained, transferred, or used within its territory or in any other place under its jurisdiction or control for purposes not prohibited under this Convention. To this end, and in order to verify that activities are in accordance with obligations under this Convention, each State Party shall subject toxic chemicals and their precursors listed in Schedules 1, 2 and 3 of the Annex on Chemicals, facilities related to such chemicals, and other facilities as specified in the Verification Annex, that are located on its territory or in any other place under its jurisdiction or control, to verification measures as provided in the Verification Annex.

3. Each State Party shall subject chemicals listed in Schedule 1 (hereinafter referred to as "Schedule 1 chemicals") to the prohibitions on production, acquisition, retention, transfer and use as specified in Part VI of the Verification Annex. It shall subject Schedule 1 chemicals and facilities specified in Part VI of the Verification Annex to systematic verification through on-site inspection and monitoring with on-site instruments in accordance with that Part of the Verification Annex.

4. Each State Party shall subject chemicals listed in Schedule 2 (hereinafter referred to as "Schedule 2 chemicals") and facilities specified in Part VII of the Verification Annex to data monitoring and on-site verification in accordance with that Part of the Verification Annex.

5. Each State Party shall subject chemicals listed in Schedule 3 (hereinafter referred to as "Schedule 3 chemicals") and facilities specified in Part VIII of the Verification Annex to data monitoring and on-site verification in accordance with that Part of the Verification Annex.

6. Each State Party shall subject facilities specified in Part IX of the Verification Annex to data monitoring and eventual on-site verification in accordance with that Part of the Verification Annex unless decided otherwise by the Conference of the States Parties pursuant to Part IX, paragraph 22, of the Verification Annex.

7. Not later than 30 days after this Convention enters into force for it, each State Party shall make an initial declaration on relevant chemicals and facilities in accordance with the Verification Annex.

8. Each State Party shall make annual declarations regarding the relevant chemicals and facilities in accordance with the Verification Annex.

9. For the purpose of on-site verification, each State Party shall grant to the inspectors access to facilities as required in the Verification Annex.

10. In conducting verification activities, the Technical Secretariat shall avoid undue intrusion into the State Party's chemical activities for purposes not prohibited under this Convention and, in particular, abide by the provisions set forth in the Annex on the Protection of Confidential Information (hereinafter referred to as "Confidentiality Annex").

11. The provisions of this Article shall be implemented in a manner which avoids hampering the economic or technological development of States Parties, and international co-operation in the field of chemical activities for purposes not prohibited under this Convention including the international exchange of scientific and technical information and chemicals and equipment for the production, processing or use of chemicals for purposes not prohibited under this Convention.

ARTICLE VII

NATIONAL IMPLEMENTATION MEASURES

General undertakings

1. Each State Party shall, in accordance with its constitutional processes, adopt the necessary measures to implement its obligations under this Convention. In particular, it shall:

(a) Prohibit natural and legal persons anywhere on its territory or in any other place under its jurisdiction as recognized by international law from undertaking any activity prohibited to a State Party under this Convention, including enacting penal legislation with respect to such activity;

(b) Not permit in any place under its control any activity prohibited to a State Party under this Convention; and

(c) Extend its penal legislation enacted under subparagraph (a) to any activity prohibited to a State Party under this Convention undertaken anywhere by natural persons, possessing its nationality, in conformity with international law.

2. Each State Party shall cooperate with other States Parties and afford the appropriate form of legal assistance to facilitate the implementation of the obligations under paragraph 1.

3. Each State Party, during the implementation of its obligations under this Convention, shall assign the highest priority to ensuring the safety of people and to protecting the environment, and shall cooperate as appropriate with other States Parties in this regard.

Relations between the State Party and the Organization

4. In order to fulfil its obligations under this Convention, each State Party shall designate or establish a National Authority to serve as the national focal point for effective liaison with the Organization and other States Parties. Each State Party shall notify the Organization of its National Authority at the time that this Convention enters into force for it.

5. Each State Party shall inform the Organization of the legislative and administrative measures taken to implement this Convention.

6. Each State Party shall treat as confidential and afford special handling to information and data that it receives in confidence from the Organization in connection with the implementation of this Convention. It shall treat such information and data exclusively in connection with its rights and obligations under this Convention and in accordance with the provisions set forth in the Confidentiality Annex.

7. Each State Party undertakes to cooperate with the Organization in the exercise of all its functions and in particular to provide assistance to the Technical Secretariat.

ARTICLE VIII

THE ORGANIZATION

A. GENERAL PROVISIONS

1. The States Parties to this Convention hereby establish the Organization for the Prohibition of Chemical Weapons to achieve the object and purpose of this Convention, to ensure the implementation of its provisions, including those for international verification of compliance with it, and to provide a forum for consultation and cooperation among States Parties.

2. All States Parties to this Convention shall be members of the Organization. A State Party shall not be deprived of its membership in the Organization.

3. The seat of the Headquarters of the Organization shall be The Hague, Kingdom of the Netherlands.

4. There are hereby established as the organs of the Organization: the Conference of the States Parties, the Executive Council, and the Technical Secretariat.

5. The Organization shall conduct its verification activities provided for under this Convention in the least intrusive manner possible consistent with the timely and efficient accomplishment of their objectives. It shall request only the information and data necessary to fulfil its responsibilities under this Convention. It shall take every precaution to protect the confidentiality of information on civil and military activities and facilities coming to its knowledge in the implementation of this Convention and, in particular, shall abide by the provisions set forth in the Confidentiality Annex.

6. In undertaking its verification activities the Organization shall consider measures to make use of advances in science and technology.

7. The costs of the Organization's activities shall be paid by States Parties in accordance with the United Nations scale of assessment adjusted to take into account differences in membership between the United Nations and this Organization, and subject to the provisions of Articles IV and V. Financial contributions of States Parties to the Preparatory Commission shall be deducted in an appropriate way from their contributions to the regular budget. The budget of the Organization shall comprise two separate chapters, one relating to administrative and other costs, and one relating to verification costs.

8. A member of the Organization which is in arrears in the payment of its financial contribution to the Organization shall have no vote in the Organization if the amount of its arrears equals or exceeds the amount of the

contribution due from it for the preceding two full years. The Conference of the States Parties may, nevertheless, permit such a member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the member.

B. THE CONFERENCE OF THE STATES PARTIES

Composition, procedures and decision-making

9. The Conference of the States Parties (hereinafter referred to as "the Conference") shall be composed of all members of this Organization. Each member shall have one representative in the Conference, who may be accompanied by alternates and advisers.

10. The first session of the Conference shall be convened by the depositary not later than 30 days after the entry into force of this Convention.

11. The Conference shall meet in regular sessions which shall be held annually unless it decides otherwise.

12. Special sessions of the Conference shall be convened:

(a) When decided by the Conference;

(b) When requested by the Executive Council;

(c) When requested by any member and supported by one third of the members; or

(d) In accordance with paragraph 22 to undertake reviews of the operation of this Convention.

Except in the case of subparagraph (d), the special session shall be convened not later than 30 days after receipt of the request by the Director-General of the Technical Secretariat, unless specified otherwise in the request.

13. The Conference shall also be convened in the form of an Amendment Conference in accordance with Article XV, paragraph 2.

14. Sessions of the Conference shall take place at the seat of the Organization unless the Conference decides otherwise.

15. The Conference shall adopt its rules of procedure. At the beginning of each regular session, it shall elect its Chairman and such other officers as may be required. They shall hold office until a new Chairman and other officers are elected at the next regular session.

16. A majority of the members of the Organization shall constitute a quorum for the Conference.

17. Each member of the Organization shall have one vote in the Conference.

18. The Conference shall take decisions on questions of procedure by a simple majority of the members present and voting. Decisions on matters of substance should be taken as far as possible by consensus. If consensus is not attainable when an issue comes up for decision, the Chairman shall defer any vote for 24 hours and during this period of deferment shall make every effort to facilitate achievement of consensus, and shall report to the Conference before the end of this period. If consensus is not possible at the end of 24 hours, the Conference shall take the decision by a two-thirds majority of members present and voting unless specified otherwise in this Convention. When the issue arises as to whether the question is one of substance or not, that question shall be treated as a matter of substance unless otherwise decided by the Conference by the majority required for decisions on matters of substance.

Powers and functions

19. The Conference shall be the principal organ of the Organization. It shall consider any questions, matters or issues within the scope of this Convention, including those relating to the powers and functions of the Executive Council and the Technical Secretariat. It may make recommendations and take decisions on any questions, matters or issues related to this Convention raised by a State Party or brought to its attention by the Executive Council.

20. The Conference shall oversee the implementation of this Convention, and act in order to promote its object and purpose. The Conference shall review compliance with this Convention. It shall also oversee the activities of the Executive Council and the Technical Secretariat and may issue guidelines in accordance with this Convention to either of them in the exercise of their functions.

21. The Conference shall:

(a) Consider and adopt at its regular sessions the report, programme and budget of the Organization, submitted by the Executive Council, as well as consider other reports;

(b) Decide on the scale of financial contributions to be paid by States Parties in accordance with paragraph 7;

(c) Elect the members of the Executive Council;

(d) Appoint the Director-General of the Technical Secretariat (hereinafter referred to as "the Director-General");

(e) Approve the rules of procedure of the Executive Council submitted by the latter;

(f) Establish such subsidiary organs as it finds necessary for the exercise of its functions in accordance with this Convention;

(g) Foster international cooperation for peaceful purposes in the field of chemical activities;

(h) Review scientific and technological developments that could affect the operation of this Convention and, in this context, direct the Director-General to establish a Scientific Advisory Board to enable him, in the performance of his functions, to render specialized advice in areas of science and technology relevant to this Convention, to the Conference, the Executive Council or States Parties. The Scientific Advisory Board shall be composed of independent experts appointed in accordance with terms of reference adopted by the Conference;

(i) Consider and approve at its first session any draft agreements, provisions and guidelines developed by the Preparatory Commission;

(j) Establish at its first session the voluntary fund for assistance in accordance with Article X;

(k) Take the necessary measures to ensure compliance with this Convention and to redress and remedy any situation which contravenes the provisions of this Convention, in accordance with Article XII.

22. The Conference shall not later than one year after the expiry of the fifth and the tenth year after the entry into force of this Convention, and at such other times within that time period as may be decided upon, convene in special sessions to undertake reviews of the operation of this Convention. Such reviews shall take into account any relevant scientific and technological developments. At intervals of five years thereafter, unless otherwise decided upon, further sessions of the Conference shall be convened with the same objective.

C. THE EXECUTIVE COUNCIL

Composition, procedure and decision-making

23. The Executive Council shall consist of 41 members. Each State Party shall have the right, in accordance with the principle of rotation, to serve on the Executive Council. The members of the Executive Council shall be elected by the Conference for a term of two years. In order to ensure the effective functioning of this Convention, due regard being specially paid to equitable geographical distribution, to the importance of chemical industry, as well as to political and security interests, the Executive Council shall be composed as follows:

(a) Nine States Parties from Africa to be designated by States Parties located in this region. As a basis for this designation it is understood that, out of these nine States Parties, three members shall, as a rule, be the States Parties with the most significant national chemical industry in the region as determined by internationally reported and published data; in addition, the regional group shall agree also to take into account other regional factors in designating these three members;

(b) Nine States Parties from Asia to be designated by States Parties located in this region. As a basis for this designation it is understood that, out of these nine States Parties, four members shall, as a rule, be the States Parties with the most significant national chemical industry in the region as determined by internationally reported and published data; in addition, the regional group shall agree also to take into account other regional factors in designating these four members;

(c) Five States Parties from Eastern Europe to be designated by States Parties located in this region. As a basis for this designation it is understood that, out of these five States Parties, one member shall, as a rule, be the State Party with the most significant national chemical industry in the region as determined by internationally reported and published data; in addition, the regional group shall agree also to take into account other regional factors in designating this one member;

(d) Seven States Parties from Latin America and the Caribbean to be designated by States Parties located in this region. As a basis for this designation it is understood that, out of these seven States Parties, three members shall, as a rule, be the States Parties with the most significant national chemical industry in the region as determined by internationally reported and published data; in addition, the regional group shall agree also to take into account other regional factors in designating these three members;

(e) Ten States Parties from among Western European and Other States to be designated by States Parties located in this region. As a basis for this designation it is understood that, out of these ten States Parties, five members shall, as a rule, be the States Parties with the most significant national chemical industry in the region as determined by internationally reported and published data; in addition, the regional group shall agree also to take into account other regional factors in designating these five members;

(f) One further State Party to be designated consecutively by States Parties located in the regions of Asia and Latin America and the Caribbean. As a basis for this designation it is understood that this State Party shall be a rotating member from these regions.

24. For the first election of the Executive Council 20 members shall be elected for a term of one year, due regard being paid to the established numerical proportions as described in paragraph 23.

25. After the full implementation of Articles IV and V the Conference may, upon the request of a majority of the members of the Executive Council, review the composition of the Executive Council taking into account developments related to the principles specified in paragraph 23 that are governing its composition.

26. The Executive Council shall elaborate its rules of procedure and submit them to the Conference for approval.

27. The Executive Council shall elect its Chairman from among its members.

28. The Executive Council shall meet for regular sessions. Between regular sessions it shall meet as often as may be required for the fulfillment of its powers and functions.

29. Each member of the Executive Council shall have one vote. Unless otherwise specified in this Convention, the Executive Council shall take decisions on matters of substance by a two-thirds majority of all its members. The Executive Council shall take decisions on questions of procedure by a simple majority of all its members. When the issue arises as to whether the question is one of substance or not, that question shall be treated as a matter of substance unless otherwise decided by the Executive Council by the majority required for decisions on matters of substance.

Powers and functions

30. The Executive Council shall be the executive organ of the Organization. It shall be responsible to the Conference. The Executive Council shall carry out the powers and functions entrusted to it under this Convention, as well as those functions delegated to it by the Conference. In so doing, it shall act in conformity with the recommendations, decisions and guidelines of the Conference and assure their proper and continuous implementation.

31. The Executive Council shall promote the effective implementation of, and compliance with, this Convention. It shall supervise the activities of the Technical Secretariat, cooperate with the National Authority of each State Party and facilitate consultations and cooperation among States Parties at their request.

32. The Executive Council shall:

(a) Consider and submit to the Conference the draft programme and budget of the Organization;

(b) Consider and submit to the Conference the draft report of the Organization on the implementation of this Convention, the report on the performance of its own activities and such special reports as it deems necessary or which the Conference may request;

(c) Make arrangements for the sessions of the Conference including the preparation of the draft agenda.

33. The Executive Council may request the convening of a special session of the Conference.

34. The Executive Council shall:

(a) Conclude agreements or arrangements with States and international organizations on behalf of the Organization, subject to prior approval by the Conference;

(b) Conclude agreements with States Parties on behalf of the Organization in connection with Article X and supervise the voluntary fund referred to in Article X;

(c) Approve agreements or arrangements relating to the implementation of verification activities, negotiated by the Technical Secretariat with States Parties.

35. The Executive Council shall consider any issue or matter within its competence affecting this Convention and its implementation, including concerns regarding compliance, and cases of non-compliance, and, as appropriate, inform States Parties and bring the issue or matter to the attention of the Conference.

36. In its consideration of doubts or concerns regarding compliance and cases of non-compliance, including, *inter alia*, abuse of the rights provided for under this Convention, the Executive Council shall consult with the States Parties involved and, as appropriate, request the State Party to take measures to redress the situation within a specified time. To the extent that the Executive Council considers further action to be necessary, it shall take, *inter alia*, one or more of the following measures:

(a) Inform all States Parties of the issue or matter;

(b) Bring the issue or matter to the attention of the Conference;

(c) Make recommendations to the Conference regarding measures to redress the situation and to ensure compliance.

The Executive Council shall, in cases of particular gravity and urgency, bring the issue or matter, including relevant information and conclusions, directly to the attention of the United Nations General Assembly and the United Nations Security Council. It shall at the same time inform all States Parties of this step.

D. THE TECHNICAL SECRETARIAT

37. The Technical Secretariat shall assist the Conference and the Executive Council in the performance of their functions. The Technical Secretariat shall carry out the verification measures provided for in this Convention. It shall carry out the other functions entrusted to it under this Convention as well as those functions delegated to it by the Conference and the Executive Council.

38. The Technical Secretariat shall:

(a) Prepare and submit to the Executive Council the draft programme and budget of the Organization;

(b) Prepare and submit to the Executive Council the draft report of the Organization on the implementation of this Convention and such other reports as the Conference or the Executive Council may request;

(c) Provide administrative and technical support to the Conference, the Executive Council and subsidiary organs;

(d) Address and receive communications on behalf of the Organization to and from States Parties on matters pertaining to the implementation of this Convention;

(e) Provide technical assistance and technical evaluation to States Parties in the implementation of the provisions of this Convention, including evaluation of scheduled and unscheduled chemicals.

39. The Technical Secretariat shall:

(a) Negotiate agreements or arrangements relating to the implementation of verification activities with States Parties, subject to approval by the Executive Council;

(b) Not later than 180 days after entry into force of this Convention, coordinate the establishment and maintenance of permanent stockpiles of emergency and humanitarian assistance by States Parties in accordance with Article X, paragraphs 7 (b) and (c). The Technical Secretariat may inspect the items maintained for serviceability. Lists of items to be stockpiled shall be considered and approved by the Conference pursuant to paragraph 21 (i) above;

(c) Administer the voluntary fund referred to in Article X, compile declarations made by the States Parties and register, when requested, bilateral agreements concluded between States Parties or between a State Party and the Organization for the purposes of Article X.

40. The Technical Secretariat shall inform the Executive Council of any problem that has arisen with regard to the discharge of its functions, including doubts, ambiguities or uncertainties about compliance with this Convention that have come to its notice in the performance of its verification activities and that it has been unable to resolve or clarify through its consultations with the State Party concerned.

41. The Technical Secretariat shall comprise a Director-General, who shall be its head and chief administrative officer, inspectors and such scientific, technical and other personnel as may be required.

42. The Inspectorate shall be a unit of the Technical Secretariat and shall act under the supervision of the Director-General.

43. The Director-General shall be appointed by the Conference upon the recommendation of the Executive Council for a term of four years, renewable for one further term, but not thereafter.

44. The Director-General shall be responsible to the Conference and the Executive Council for the appointment of the staff and the organization and functioning of the Technical Secretariat. The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence and integrity. Only citizens of States Parties shall serve as the Director-General, as inspectors or as other members of the professional and clerical staff. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible. Recruitment shall be guided by the principle that the staff shall be kept to a minimum necessary for the proper discharge of the responsibilities of the Technical Secretariat.

45. The Director-General shall be responsible for the organization and functioning of the Scientific Advisory Board referred to in paragraph 21 (h). The Director-General shall, in consultation with States Parties, appoint members of the Scientific Advisory Board, who shall serve in their individual capacity. The members of the Board shall be appointed on the basis of their expertise in the particular scientific fields relevant to the implementation of this Convention. The Director-General may also, as appropriate, in consultation with members of the Board, establish temporary working groups of scientific experts to provide recommendations on specific issues. In regard to the above, States Parties may submit lists of experts to the Director-General.

46. In the performance of their duties, the Director-General, the inspectors and the other members of the staff shall not seek or receive instructions from any Government or from any other source external to the Organization. They shall refrain from any action that might reflect on their positions as international officers responsible only to the Conference and the Executive Council.

47. Each State Party shall respect the exclusively international character of the responsibilities of the Director-General, the inspectors and the other members of the staff and not seek to influence them in the discharge of their responsibilities.

E. PRIVILEGES AND IMMUNITIES

48. The Organization shall enjoy on the territory and in any other place under the jurisdiction or control of a State Party such legal capacity and such privileges and immunities as are necessary for the exercise of its functions.

49. Delegates of States Parties, together with their alternates and advisers, representatives appointed to the Executive Council together with their alternates and advisers, the Director-General and the staff of the Organization shall enjoy such privileges and immunities as are necessary in the independent exercise of their functions in connection with the Organization.

50. The legal capacity, privileges, and immunities referred to in this Article shall be defined in agreements between the Organization and the States Parties as well as in an agreement between the Organization and the State in which the headquarters of the Organization is seated. These agreements shall be considered and approved by the Conference pursuant to paragraph 21 (i).

51. Notwithstanding paragraphs 48 and 49, the privileges and immunities enjoyed by the Director-General and the staff of the Technical Secretariat during the conduct of verification activities shall be those set forth in Part II, Section B, of the Verification Annex.

ARTICLE IX

CONSULTATIONS, COOPERATION AND FACT-FINDING

1. States Parties shall consult and cooperate, directly among themselves, or through the Organization or other appropriate international procedures, including procedures within the framework of the United Nations and in accordance with its Charter, on any matter which may be raised relating to the object and purpose, or the implementation of the provisions, of this Convention.

2. Without prejudice to the right of any State Party to request a challenge inspection, States Parties should, whenever possible, first make every effort to clarify and resolve, through exchange of information and consultations among themselves, any matter which may cause doubt about compliance with this Convention, or which gives rise to concerns about a related matter which may be considered ambiguous. A State Party which receives a request from another State Party for clarification of any matter which the requesting State Party believes causes such a doubt or concern shall provide the requesting State Party as soon as possible, but in any case not later than 10 days after the request, with information sufficient to answer the doubt or concern raised along with an explanation of how the information provided resolves the matter. Nothing in this Convention shall affect the right of any two or more States Parties to arrange by mutual consent for inspections or any other procedures among themselves to clarify and resolve any matter which may cause doubt about compliance or gives rise to a concern about a related matter which may be considered ambiguous. Such arrangements shall not affect the rights and obligations of any State Party under other provisions of this Convention.

Procedure for requesting clarification

3. A State Party shall have the right to request the Executive Council to assist in clarifying any situation which may be considered ambiguous or which gives rise to a concern about the possible non-compliance of another State Party with this Convention. The Executive Council shall provide appropriate information in its possession relevant to such a concern.

4. A State Party shall have the right to request the Executive Council to obtain clarification from another State Party on any situation which may be considered ambiguous or which gives rise to a concern about its possible non-compliance with this Convention. In such a case, the following shall apply:

(a) The Executive Council shall forward the request for clarification to the State Party concerned through the Director-General not later than 24 hours after its receipt;

(b) The requested State Party shall provide the clarification to the Executive Council as soon as possible, but in any case not later than 10 days after the receipt of the request;

(c) The Executive Council shall take note of the clarification and forward it to the requesting State Party not later than 24 hours after its receipt;

(d) If the requesting State Party deems the clarification to be inadequate, it shall have the right to request the Executive Council to obtain from the requested State Party further clarification;

(e) For the purpose of obtaining further clarification requested under subparagraph (d), the Executive Council may call on the Director-General to establish a group of experts from the Technical Secretariat, or if appropriate staff are not available in the Technical Secretariat, from elsewhere, to examine all available information and data relevant to the situation causing the concern. The group of experts shall submit a factual report to the Executive Council on its findings;

(f) If the requesting State Party considers the clarification obtained under subparagraphs (d) and (e) to be unsatisfactory, it shall have the right to request a special session of the Executive Council in which States Parties involved that are not members of the Executive Council shall be entitled to take part. In such a special session, the Executive Council shall consider the matter and may recommend any measure it deems appropriate to resolve the situation.

5. A State Party shall also have the right to request the Executive Council to clarify any situation which has been considered ambiguous or has given rise to a concern about its possible non-compliance with this Convention. The Executive Council shall respond by providing such assistance as appropriate.

6. The Executive Council shall inform the States Parties about any request for clarification provided in this Article.

7. If the doubt or concern of a State Party about a possible non-compliance has not been resolved within 60 days after the submission of the request for clarification to the Executive Council, or it believes its doubts warrant urgent consideration, notwithstanding its right to request a challenge inspection, it may request a special session of the Conference in accordance with Article VIII, paragraph 12 (c). At such a special session, the Conference shall consider the matter and may recommend any measure it deems appropriate to resolve the situation.

Procedures for Challenge Inspections

8. Each State Party has the right to request an on-site challenge inspection of any facility or location in the territory or in any other place under the jurisdiction or control of any other State Party for the sole purpose of clarifying and resolving any questions concerning possible non-compliance with the provisions of this Convention, and to have this inspection conducted anywhere without delay by an inspection team designated by the Director-General and in accordance with the Verification Annex.

9. Each State Party is under the obligation to keep the inspection request within the scope of this Convention and to provide in the inspection request all appropriate information on the basis of which a concern has arisen regarding possible non-compliance with this Convention as specified in the Verification Annex. Each State Party shall refrain from unfounded inspection requests, care being taken to avoid abuse. The challenge inspection shall be carried out for the sole purpose of determining facts relating to the possible non-compliance.

10. For the purpose of verifying compliance with the provisions of this Convention, each State Party shall permit the Technical Secretariat to conduct the on-site challenge inspection pursuant to paragraph 8.

11. Pursuant to a request for a challenge inspection of a facility or location, and in accordance with the procedures provided for in the Verification Annex, the inspected State Party shall have:

(a) The right and the obligation to make every reasonable effort to demonstrate its compliance with this Convention and, to this end, to enable the inspection team to fulfil its mandate;

(b) The obligation to provide access within the requested site for the sole purpose of establishing facts relevant to the concern regarding possible non-compliance; and

(c) The right to take measures to protect sensitive installations, and to prevent disclosure of confidential information and data, not related to this Convention.

12. With regard to an observer, the following shall apply:

(a) The requesting State Party may, subject to the agreement of the inspected State Party, send a representative who may be a national either of the requesting State Party or of a third State Party, to observe the conduct of the challenge inspection.

(b) The inspected State Party shall then grant access to the observer in accordance with the Verification Annex.

(c) The inspected State Party shall, as a rule, accept the proposed observer, but if the inspected State Party exercises a refusal, that fact shall be recorded in the final report.

13. The requesting State Party shall present an inspection request for an on-site challenge inspection to the Executive Council and at the same time to the Director-General for immediate processing.

14. The Director-General shall immediately ascertain that the inspection request meets the requirements specified in Part X, paragraph 4, of the Verification Annex, and, if necessary, assist the requesting State Party in filing the inspection request accordingly. When the inspection request fulfils the requirements, preparations for the challenge inspection shall begin.

15. The Director-General shall transmit the inspection request to the inspected State Party not less than 12 hours before the planned arrival of the inspection team at the point of entry.

16. After having received the inspection request, the Executive Council shall take cognizance of the Director-General's actions on the request and shall keep the case under its consideration throughout the inspection procedure. However, its deliberations shall not delay the inspection process.

17. The Executive Council may, not later than 12 hours after having received the inspection request, decide by a three-quarter majority of all its members against carrying out the challenge inspection, if it considers the inspection request to be frivolous, abusive or clearly beyond the scope of this Convention as described in paragraph 8. Neither the requesting nor the inspected State Party shall participate in such a decision. If the Executive Council decides against the challenge inspection, preparations shall be stopped, no further action on the inspection request shall be taken, and the States Parties concerned shall be informed accordingly.

18. The Director-General shall issue an inspection mandate for the conduct of the challenge inspection. The inspection mandate shall be the inspection request referred to in paragraphs 8 and 9 put into operational terms, and shall conform with the inspection request.

19. The challenge inspection shall be conducted in accordance with Part X or, in the case of alleged use, in accordance with Part XI of the Verification Annex. The inspection team shall be guided by the principle of conducting the challenge inspection in the least intrusive manner possible, consistent with the effective and timely accomplishment of its mission.

20. The inspected State Party shall assist the inspection team throughout the challenge inspection and facilitate its task. If the inspected State Party proposes, pursuant to Part X, Section C, of the Verification Annex, arrangements to demonstrate compliance with this Convention, alternative to full and comprehensive access, it shall make every reasonable effort, through consultations with the inspection team, to reach agreement on the modalities for establishing the facts with the aim of demonstrating its compliance.

21. The final report shall contain the factual findings as well as an assessment by the inspection team of the degree and nature of access and cooperation granted for the satisfactory implementation of the challenge inspection. The Director-General shall promptly transmit the final report of the inspection team to the requesting State Party, to the inspected State Party, to the Executive Council and to all other States Parties. The

Director-General shall further transmit promptly to the Executive Council the assessments of the requesting and of the inspected States Parties, as well as the views of other States Parties which may be conveyed to the Director-General for that purpose, and then provide them to all States Parties.

22. The Executive Council shall, in accordance with its powers and functions, review the final report of the inspection team as soon as it is presented, and address any concerns as to:

(a) Whether any non-compliance has occurred;

(b) Whether the request had been within the scope of this Convention; and

(c) Whether the right to request a challenge inspection had been abused.

23. If the Executive Council reaches the conclusion, in keeping with its powers and functions, that further action may be necessary with regard to paragraph 22, it shall take the appropriate measures to redress the situation and to ensure compliance with this Convention, including specific recommendations to the Conference. In the case of abuse, the Executive Council shall examine whether the requesting State Party should bear any of the financial implications of the challenge inspection.

24. The requesting State Party and the inspected State Party shall have the right to participate in the review process. The Executive Council shall inform the States Parties and the next session of the Conference of the outcome of the process.

25. If the Executive Council has made specific recommendations to the Conference, the Conference shall consider action in accordance with Article XII.

ARTICLE X

ASSISTANCE AND PROTECTION AGAINST CHEMICAL WEAPONS

1. For the purposes of this Article, "Assistance" means the coordination and delivery to States Parties of protection against chemical weapons, including, inter alia, the following: detection equipment and alarm systems; protective equipment; decontamination equipment and decontaminants; medical antidotes and treatments; and advice on any of these protective measures.

2. Nothing in this Convention shall be interpreted as impeding the right of any State Party to conduct research into, develop, produce, acquire, transfer or use means of protection against chemical weapons, for purposes not prohibited under this Convention.

3. Each State Party undertakes to facilitate, and shall have the right to participate in, the fullest possible exchange of equipment, material and scientific and technological information concerning means of protection against chemical weapons.

4. For the purposes of increasing the transparency of national programmes related to protective purposes, each State Party shall provide annually to the Technical Secretariat information on its programme, in accordance with procedures to be considered and approved by the Conference pursuant to Article VIII, paragraph 21 (i).

5. The Technical Secretariat shall establish, not later than 180 days after entry into force of this Convention and maintain, for the use of any requesting State Party, a data bank containing freely available information concerning various means of protection against chemical weapons as well as such information as may be provided by States Parties.

The Technical Secretariat shall also, within the resources available to it, and at the request of a State Party, provide expert advice and assist the State Party in identifying how its programmes for the development and improvement of a protective capacity against chemical weapons could be implemented.

6. Nothing in this Convention shall be interpreted as impeding the right of States Parties to request and provide assistance bilaterally and to conclude individual agreements with other States Parties concerning the emergency procurement of assistance.

7. Each State Party undertakes to provide assistance through the Organization and to this end to elect to take one or more of the following measures:

(a) To contribute to the voluntary fund for assistance to be established by the Conference at its first session;

(b) To conclude, if possible not later than 180 days after this Convention enters into force for it, agreements with the Organization concerning the procurement, upon demand, of assistance;

(c) To declare, not later than 180 days after this Convention enters into force for it, the kind of assistance it might provide in response to an appeal by the Organization. If, however, a State Party subsequently is unable to provide the assistance envisaged in its declaration, it is still under the obligation to provide assistance in accordance with this paragraph.

8. Each State Party has the right to request and, subject to the procedures set forth in paragraphs 9, 10 and 11, to receive assistance and protection against the use or threat of use of chemical weapons if it considers that:

(a) Chemical weapons have been used against it;

(b) Riot control agents have been used against it as a method of warfare; or

(c) It is threatened by actions or activities of any State that are prohibited for States Parties by Article I.

9. The request, substantiated by relevant information, shall be submitted to the Director-General, who shall transmit it immediately to the Executive Council and to all States Parties. The Director-General shall immediately forward the request to States Parties which have volunteered, in accordance with paragraphs 7 (b) and (c), to dispatch emergency assistance in case of use of chemical weapons or use of riot control agents as a method of warfare, or humanitarian assistance in case of serious threat of use of chemical weapons or serious threat of use of riot control agents as a method of warfare to the State Party concerned not later than 12 hours after receipt of the request. The Director-General shall initiate, not later than 24 hours after receipt of the request, an investigation in order to provide foundation for further action. He shall complete the investigation within 72 hours and forward a report to the Executive Council. If additional time is required for completion of the investigation, an interim report shall be submitted within the same time-frame. The additional time required for investigation shall not exceed 72 hours. It may, however, be further extended by similar periods. Reports at the end of each additional period shall be submitted to the Executive Council. The investigation shall, as appropriate and in conformity with the request and the information accompanying the request, establish relevant facts related to the request as well as the type and scope of supplementary assistance and protection needed.

10. The Executive Council shall meet not later than 24 hours after receiving an investigation report to consider the situation and shall take a decision by simple majority within the following 24 hours on whether to instruct the Technical Secretariat to provide supplementary assistance. The Technical Secretariat shall immediately transmit to all States Parties and relevant international organizations the investigation report and the decision taken by the Executive Council. When so decided by the Executive Council, the Director-General shall provide assistance immediately. For this purpose, the Director-General may cooperate with the requesting State Party, other States Parties and relevant international organizations. The States Parties shall make the fullest possible efforts to provide assistance.

11. If the information available from the ongoing investigation or other reliable sources would give sufficient proof that there are victims of use of chemical weapons and immediate action is indispensable, the Director-General shall notify all States Parties and shall take emergency measures of assistance, using the resources the Conference has placed at his disposal for such contingencies. The Director-General shall keep the Executive Council informed of actions undertaken pursuant to this paragraph.

ARTICLE XI

ECONOMIC AND TECHNOLOGICAL DEVELOPMENT

1. The provisions of this Convention shall be implemented in a manner which avoids hampering the economic or technological development of States Parties, and international cooperation in the field of chemical activities for purposes not prohibited under this Convention including the international exchange of scientific and technical information and chemicals and equipment for the production, processing or use of chemicals for purposes not prohibited under this Convention.

2. Subject to the provisions of this Convention and without prejudice to the principles and applicable rules of international law, the States Parties shall:

(a) Have the right, individually or collectively, to conduct research with, to develop, produce, acquire, retain, transfer, and use chemicals;

(b) Undertake to facilitate, and have the right to participate in, the fullest possible exchange of chemicals, equipment and scientific and technical information relating to the development and application of chemistry for purposes not prohibited under this Convention;

(c) Not maintain among themselves any restrictions, including those in any international agreements, incompatible with the obligations undertaken under this Convention, which would restrict or impede trade and the development and promotion of scientific and technological knowledge in the field of chemistry for industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes;

(d) Not use this Convention as grounds for applying any measures other than those provided for, or permitted, under this Convention nor use any other international agreement for pursuing an objective inconsistent with this Convention;

(e) Undertake to review their existing national regulations in the field of trade in chemicals in order to render them consistent with the object and purpose of this Convention.

ARTICLE XII

MEASURES TO REDRESS A SITUATION AND TO ENSURE COMPLIANCE, INCLUDING SANCTIONS

1. The Conference shall take the necessary measures, as set forth in paragraphs 2, 3 and 4, to ensure compliance with this Convention and to redress and remedy any situation which contravenes the provisions of this Convention. In considering action pursuant to this paragraph, the Conference shall take into account all information and recommendations on the issues submitted by the Executive Council.

2. In cases where a State Party has been requested by the Executive Council to take measures to redress a situation raising problems with regard to its compliance, and where the State Party fails to fulfil the request within the specified time, the Conference may, *inter alia*, upon the recommendation of the Executive Council, restrict or suspend the State Party's rights and privileges under this Convention until it undertakes the necessary action to conform with its obligations under this Convention.

3. In cases where serious damage to the object and purpose of this Convention may result from activities prohibited under this Convention, in particular by Article I, the Conference may recommend collective measures to States Parties in conformity with international law.

4. The Conference shall in cases of particular gravity, bring the issue, including relevant information and conclusions, to the attention of the United Nations General Assembly and the United Nations Security Council.

ARTICLE XIII

RELATION TO OTHER INTERNATIONAL AGREEMENTS

Nothing in this Convention shall be interpreted as in any way limiting or detracting from the obligations assumed by any State under the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on 17 June 1925, and under the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, signed at London, Moscow and Washington on 10 April 1972.

ARTICLE XIV

SETTLEMENT OF DISPUTES

1. Disputes that may arise concerning the application or the interpretation of this Convention shall be settled in accordance with the relevant provisions of this Convention and in conformity with the provisions of the Charter of the United Nations.

2. When a dispute arises between two or more States Parties, or between one or more States Parties and the Organization, relating to the interpretation or application of this Convention, the parties concerned shall consult together with a view to the expeditious settlement of the dispute by negotiation or by other peaceful means of the parties' choice, including recourse to appropriate organs of this Convention and, by mutual consent, referral to the International Court of Justice in conformity with the Statute of the Court. The States Parties involved shall keep the Executive Council informed of actions being taken.

3. The Executive Council may contribute to the settlement of a dispute by whatever means it deems appropriate, including offering its good offices, calling upon the States Parties to a dispute to start the settlement process of their choice and recommending a time-limit for any agreed procedure.

4. The Conference shall consider questions related to disputes raised by States Parties or brought to its attention by the Executive Council. The Conference shall, as it finds necessary, establish or entrust organs with tasks related to the settlement of these disputes in conformity with Article VIII, paragraph 21 (f).

5. The Conference and the Executive Council are separately empowered, subject to authorization from the General Assembly of the United Nations, to request the International Court of Justice to give an advisory opinion on any legal question arising within the scope of the activities of the Organization. An agreement between the Organization and the United Nations shall be concluded for this purpose in accordance with Article VIII, paragraph 34 (a).

6. This Article is without prejudice to Article IX or to the provisions on measures to redress a situation and to ensure compliance, including sanctions.

ARTICLE XV

AMENDMENTS

1. Any State Party may propose amendments to this Convention. Any State Party may also propose changes, as specified in paragraph 4, to the Annexes of this Convention. Proposals for amendments shall be subject to the procedures in paragraphs 2 and 3. Proposals for changes, as specified in paragraph 4, shall be subject to the procedures in paragraph 5.

2. The text of a proposed amendment shall be submitted to the Director-General for circulation to all States Parties and to the Depositary. The proposed amendment shall be considered only by an Amendment Conference. Such an Amendment Conference shall be convened if one third or more of the States Parties notify the Director-General not later than 30 days after its circulation that they support further consideration of the proposal. The Amendment Conference shall be held immediately following a regular session of the Conference unless the requesting States Parties ask for an earlier meeting. In no case shall an Amendment Conference be held less than 60 days after the circulation of the proposed amendment.

3. Amendments shall enter into force for all States Parties 30 days after deposit of the instruments of ratification or acceptance by all the States Parties referred to under subparagraph (b) below:

(a) When adopted by the Amendment Conference by a positive vote of a majority of all States Parties with no State Party casting a negative vote; and

(b) Ratified or accepted by all those States Parties casting a positive vote at the Amendment Conference.

4. In order to ensure the viability and the effectiveness of this Convention, provisions in the Annexes shall be subject to changes in accordance with paragraph 5, if proposed changes are related only to matters of an administrative or technical nature. All changes to the Annex on Chemicals shall be made in accordance with paragraph 5. Sections A and C of the Confidentiality Annex, Part X of the Verification Annex, and those definitions in Part I of the Verification Annex which relate exclusively to challenge inspections, shall not be subject to changes in accordance with paragraph 5.

5. Proposed changes referred to in paragraph 4 shall be made in accordance with the following procedures:

(a) The text of the proposed changes shall be transmitted together with the necessary information to the Director-General. Additional information for the evaluation of the proposal may be provided by any State Party and the Director-General. The Director-General shall promptly communicate any such proposals and information to all States Parties, the Executive Council and the Depositary;

(b) Not later than 60 days after its receipt, the Director-General shall evaluate the proposal to determine all its possible consequences for the provisions of this Convention and its implementation and shall communicate any such information to all States Parties and the Executive Council;

(c) The Executive Council shall examine the proposal in the light of all information available to it, including whether the proposal fulfils the requirements of paragraph 4. Not later than 90 days after its receipt, the Executive Council shall notify its recommendation, with appropriate explanations, to all States Parties for consideration. States Parties shall acknowledge receipt within 10 days;

(d) If the Executive Council recommends to all States Parties that the proposal be adopted, it shall be considered approved if no State Party objects to it within 90 days after receipt of the recommendation. If the Executive Council recommends that the proposal be rejected, it shall be considered rejected if no State Party objects to the rejection within 90 days after receipt of the recommendation;

(e) If a recommendation of the Executive Council does not meet with the acceptance required under subparagraph (d), a decision on the proposal, including whether it fulfils the requirements of paragraph 4, shall be taken as a matter of substance by the Conference at its next session;

(f) The Director-General shall notify all States Parties and the Depositary of any decision under this paragraph;

(g) Changes approved under this procedure shall enter into force for all States Parties 180 days after the date of notification by the Director-General of their approval unless another time period is recommended by the Executive Council or decided by the Conference.

ARTICLE XVI

DURATION AND WITHDRAWAL

1. This Convention shall be of unlimited duration.

2. Each State Party shall, in exercising its national sovereignty, have the right to withdraw from this Convention if it decides that extraordinary events, related to the subject matter of this Convention, have jeopardized the supreme interests of its country. It shall give notice of such withdrawal 90 days in advance to all other States Parties, the Executive Council, the Depositary and the United Nations Security Council. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.

3. The withdrawal of a State Party from this Convention shall not in any way affect the duty of States to continue fulfilling the obligations assumed under any relevant rules of international law, particularly the Geneva Protocol of 1925.

ARTICLE XVII

STATUS OF THE ANNEXES

The Annexes form an integral part of this Convention. Any reference to this Convention includes the Annexes.

ARTICLE XVIII

SIGNATURE

This Convention shall be open for signature for all States before its entry into force.

ARTICLE XIX

RATIFICATION

This Convention shall be subject to ratification by States Signatories according to their respective constitutional processes.

ARTICLE XX

ACCESSION

Any State which does not sign this Convention before its entry into force may accede to it at any time thereafter.

ARTICLE XXI

ENTRY INTO FORCE

1. This Convention shall enter into force 180 days after the date of the deposit of the 65th instrument of ratification, but in no case earlier than two years after its opening for signature.

2. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Convention, it shall enter into force on the 30th day following the date of deposit of their instrument of ratification or accession.

ARTICLE XXII

RESERVATIONS

The Articles of this Convention shall not be subject to reservations. The Annexes of this Convention shall not be subject to reservations incompatible with its object and purpose.

ARTICLE XXIII

DEPOSITARY

The Secretary-General of the United Nations is hereby designated as the Depositary of this Convention and shall, *inter alia*:

(a) Promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or accession and the date of the entry into force of this Convention, and of the receipt of other notices;

(b) Transmit duly certified copies of this Convention to the Governments of all signatory and acceding States; and

(c) Register this Convention pursuant to Article 102 of the Charter of the United Nations.

ARTICLE XXIV

AUTHENTIC TEXTS

This Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed this Convention.

Done at .... on ...

ANNEX ON CHEMICALS

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B. Schedules of Chemicals 157

A. GUIDELINES FOR SCHEDULES OF CHEMICALS

Guidelines for Schedule 1

1. The following criteria shall be taken into account in considering whether a toxic chemical or precursor should be included in Schedule 1:

(a) It has been developed, produced, stockpiled or used as a chemical weapon as defined in Article II;

(b) It poses otherwise a high risk to the object and purpose of this Convention by virtue of its high potential for use in activities prohibited under this Convention because one or more of the following conditions are met:

(i) It possesses a chemical structure closely related to that of other toxic chemicals listed in Schedule 1, and has, or can be expected to have, comparable properties;

(ii) It possesses such lethal or incapacitating toxicity as well as other properties that would enable it to be used as a chemical weapon;

(iii) It may be used as a precursor in the final single technological stage of production of a toxic chemical listed in Schedule 1, regardless of whether this stage takes place in facilities, in munitions or elsewhere;

(c) It has little or no use for purposes not prohibited under this Convention.

Guidelines for Schedule 2

2. The following criteria shall be taken into account in considering whether a toxic chemical not listed in Schedule 1 or a precursor to a Schedule 1 chemical or to a chemical listed in Schedule 2, part A, should be included in Schedule 2:

(a) It poses a significant risk to the object and purpose of this Convention because it possesses such lethal or incapacitating toxicity as well as other properties that could enable it to be used as a chemical weapon;

(b) It may be used as a precursor in one of the chemical reactions at the final stage of formation of a chemical listed in Schedule 1 or Schedule 2, part A;

(c) It poses a significant risk to the object and purpose of this Convention by virtue of its importance in the production of a chemical listed in Schedule 1 or Schedule 2, part A;

(d) It is not produced in large commercial quantities for purposes not prohibited under this Convention.

Guidelines for Schedule 3

3. The following criteria shall be taken into account in considering whether a toxic chemical or precursor, not listed in other Schedules, should be included in Schedule 3:

(a) It has been produced, stockpiled or used as a chemical weapon;

(b) It poses otherwise a risk to the object and purpose of this Convention because it possesses such lethal or incapacitating toxicity as well as other properties that might enable it to be used as a chemical weapon;

(c) It poses a risk to the object and purpose of this Convention by virtue of its importance in the production of one or more chemicals listed in Schedule 1 or Schedule 2, part B;

(d) It may be produced in large commercial quantities for purposes not prohibited under this Convention.

B. SCHEDULES OF CHEMICALS

The following Schedules list toxic chemicals and their precursors. For the purpose of implementing this Convention, these Schedules identify chemicals for the application of verification measures according to the provisions of the Verification Annex. Pursuant to Article II, subparagraph 1 (a), these Schedules do not constitute a definition of chemical weapons.

(Whenever reference is made to groups of dialkylated chemicals, followed by a list of alkyl groups in parentheses, all chemicals possible by all possible combinations of alkyl groups listed in the parentheses are considered as listed in the respective Schedule as long as they are not explicitly exempted. A chemical marked "*" on Schedule 2, part A, is subject to special thresholds for declaration and verification, as specified in Part VII of the Verification Annex.)

Schedule 1

(CAS registry number)

A. Toxic chemicals:

(1) O-Alkyl ($\leq C_{10}$, incl. cycloalkyl) alkyl (Me, Et, n-Pr or i-Pr)-phosphonofluoridates

e.g. Sarin:	O-Isopropyl methylphosphonofluoridate	(107-44-8)
Soman:	O-Pinacolyl methylphosphonofluoridate	(96-64-0)

(2) O-Alkyl ($\leq C_{10}$, incl. cycloalkyl) N,N-dialkyl (Me, Et, n-Pr or i-Pr) phosphoramidocyanidates

e.g. Tabun:	O-Ethyl N,N-dimethyl phosphoramidocyanidate	(77-81-6)

(3) O-Alkyl (H or $\leq C_{10}$, incl. cycloalkyl) S-2-dialkyl (Me, Et, n-Pr or i-Pr)-aminoethyl alkyl (Me, Et, n-Pr or i-Pr) phosphonothiolates and corresponding alkylated or protonated salts

e.g. VX:	O-Ethyl S-2-diisopropylaminoethyl methyl phosphonothiolate	(50782-69-9)

(4) Sulfur mustards:

2-Chloroethylchloromethylsulfide	(2625-76-5)
Mustard gas: Bis(2-chloroethyl)sulfide	(505-60-2)
Bis(2-chloroethylthio)methane	(63869-13-6)
Sesquimustard: 1,2-Bis(2-chloroethylthio)ethane	(3563-36-8)
1,3-Bis(2-chloroethylthio)-n-propane	(63905-10-2)
1,4-Bis(2-chloroethylthio)-n-butane	(142868-93-7)
1,5-Bis(2-chloroethylthio)-n-pentane	(142868-94-8)
Bis(2-chloroethylthiomethyl)ether	(63918-90-1)
O-Mustard: Bis(2-chloroethylthioethyl)ether	(63918-89-8)

(5) Lewisites:	
Lewisite 1: 2-Chlorovinyldichloroarsine	(541-25-3)
Lewisite 2: Bis(2-chlorovinyl)chloroarsine	(40334-69-8)
Lewisite 3: Tris(2-chlorovinyl)arsine	(40334-70-1)
(6) Nitrogen mustards:	
HN1: Bis(2-chloroethyl)ethylamine	(538-07-8)
HN2: Bis(2-chloroethyl)methylamine	(51-75-2)
HN3: Tris(2-chloroethyl)amine	(555-77-1)
(7) Saxitoxin	(35523-89-8)
(8) Ricin	(9009-86-3)
B. Precursors:	
(9) Alkyl (Me, Et, n-Pr or i-Pr) phosphonyldifluorides	
e.g. DF: Methylphosphonyldifluoride	(676-99-3)
(10) O-Alkyl (H or $\le C_{10}$, incl. cycloalkyl) O-2-dialkyl (Me, Et, n-Pr or i-Pr)-aminoethyl alkyl (Me, Et, N-Pr or i-Pr) phosphonites and corresponding alkylated or protonated salts	
e.g. QL: O-Ethyl O-2-diisopropylaminoethyl methylphosphonite	(57856-11-8)
(11) Chlorosarin: O-Isopropyl methylphosphonochloridate	(1445-76-7)
(12) Chlorosoman: O-Pinacolyl methylphosphonochloridate	(7040-57-5)

Schedule 2

A. Toxic chemicals:	
(1) Amiton: O,O-Diethyl S-[2-(diethylamino)ethyl] phosphorothiolate and corresponding alkylated or protonated salts	(78-53-5)
(2) PFIB: 1,1,3,3,3-Pentafluoro-2-(trifluoromethyl)-1-propene	(382-21-8)
(3) BZ: 3-Quinuclidinyl benzilate (*)	(6581-06-2)

B. Precursors:

(4)	Chemicals, except for those listed in Schedule 1, containing a phosphorus atom to which is bonded one methyl, ethyl or propyl (normal or iso) group but not further carbon atoms,	
	e.g. Methylphosphonyl dichloride	(676-97-1)
	Dimethyl methylphosphonate	(756-79-6)
	Exemption: Fonofos: O-Ethyl S-phenyl ethylphosphonothiolothionate	(944-22-9)
(5)	N,N-Dialkyl (Me, Et, n-Pr or i-Pr) phosphoramidic dihalides	
(6)	Dialkyl (Me, Et, n-Pr or i-Pr) N,N-dialkyl (Me, Et, n-Pr or i-Pr)-phosphoramidates	
(7)	Arsenic trichloride	(7784-34-1)
(8)	2,2-Diphenyl-2-hydroxyacetic acid	(76-93-7)
(9)	Quinuclidine-3-ol	(1619-34-7)
(10)	N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethyl-2-chlorides and corresponding protonated salts	
(11)	N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethane-2-ols and corresponding protonated salts	
	Exemptions: N,N-Dimethylaminoethanol and corresponding protonated salts	(108-01-0)
	N,N-Diethylaminoethanol and corresponding protonated salts	(100-37-8)
(12)	N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethane-2-thiols and corresponding protonated salts	
(13)	Thiodiglycol: Bis(2-hydroxyethyl)sulfide	(111-48-8)
(14)	Pinacolyl alcohol: 3,3-Dimethylbutane-2-ol	(464-07-3)

Schedule 3

A. Toxic chemicals:

(1)	Phosgene: Carbonyl dichloride	(75-44-5)
(2)	Cyanogen chloride	(506-77-4)
(3)	Hydrogen cyanide	(74-90-8)
(4)	Chloropicrin: Trichloronitromethane	(76-06-2)

B. Precursors:

(5) Phosphorus oxychloride	(10025-87-3)
(6) Phosphorus trichloride	(7719-12-2)
(7) Phosphorus pentachloride	(10026-13-8)
(8) Trimethyl phosphite	(121-45-9)
(9) Triethyl phosphite	(122-52-1)
(10) Dimethyl phosphite	(868-85-9)
(11) Diethyl phosphite	(762-04-9)
(12) Sulfur monochloride	(10025-67-9)
(13) Sulfur dichloride	(10545-99-0)
(14) Thionyl chloride	(7719-09-7)
(15) Ethyldiethanolamine	(139-87-7)
(16) Methyldiethanolamine	(105-59-9)
(17) Triethanolamine	(102-71-6)

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PART I

DEFINITIONS

1. "Approved Equipment" means the devices and instruments necessary for the performance of the inspection team's duties that have been certified by the Technical Secretariat in accordance with regulations prepared by the Technical Secretariat pursuant to Part II, paragraph 27 of this Annex. Such equipment may also refer to the administrative supplies or recording materials that would be used by the inspection team.

2. "Building" as referred to in the definition of chemical weapons production facility in Article II comprises specialized buildings and standard buildings.

(a) "Specialized Building" means:

(i) Any building, including underground structures, containing specialized equipment in a production or filling configuration;

(ii) Any building, including underground structures, which has distinctive features which distinguish it from buildings normally used for chemical production or filling activities not prohibited under this Convention.

(b) "Standard Building" means any building, including underground structures, constructed to prevailing industry standards for facilities not producing any chemical specified in Article II, paragraph 8 (a) (i), or corrosive chemicals.

3. "Challenge Inspection" means the inspection of any facility or location in the territory or in any other place under the jurisdiction or control of a State Party requested by another State Party pursuant to Article IX, paragraphs 8 to 25.

4. "Discrete Organic Chemical" means any chemical belonging to the class of chemical compounds consisting of all compounds of carbon except for its oxides, sulfides and metal carbonates, identifiable by chemical name, by structural formula, if known, and by Chemical Abstracts Service registry number, if assigned.

5. "Equipment" as referred to in the definition of chemical weapons production facility in Article II comprises specialized equipment and standard equipment.

(a) "Specialized Equipment" means:

(i) The main production train, including any reactor or equipment for product synthesis, separation or purification, any equipment used directly for heat transfer in the final technological stage, such as in reactors or in product separation, as well as any other equipment which has been in contact with any chemical specified in Article II, paragraph 8 (a) (i), or would be in contact with such a chemical if the facility were operated;

(ii) Any chemical weapon filling machines;

(iii) Any other equipment specially designed, built or installed for the operation of the facility as a chemical weapons production facility, as distinct from a facility constructed according to prevailing commercial industry standards for facilities not producing any chemical specified in Article II, paragraph 8 (a) (i), or corrosive chemicals, such as: equipment made of high-nickel alloys or other special corrosion-resistant material; special equipment for waste control, waste treatment, air filtering, or solvent recovery; special containment enclosures and safety shields; non-standard laboratory equipment used to analyse toxic chemicals for chemical weapons purposes; custom-designed process control panels; or dedicated spares for specialized equipment.

(b) "Standard Equipment" means:

(i) Production equipment which is generally used in the chemical industry and is not included in the types of specialised equipment;

(ii) Other equipment commonly used in the chemical industry, such as: fire-fighting equipment; guard and security/safety surveillance equipment; medical facilities, laboratory facilities; or communications equipment.

6. "Facility" in the context of Article VI means any of the industrial sites as defined below ("plant site","plant" and "unit").

(a) "Plant Site" (Works, Factory) means the local integration of one or more plants, with any intermediate administrative levels, which are under one operational control, and includes common infrastructure, such as:

(i) Administration and other offices;

(ii) Repair and maintenance shops;

(iii) Medical centre;

(iv) Utilities;

(v) Central analytical laboratory;

(vi) Research and development laboratories;

(vii) Central effluent and waste treatment area; and

(viii) Warehouse storage.

(b) "Plant" (Production facility, Workshop) means a relatively self-contained area, structure or building containing one or more units with auxiliary and associated infrastructure, such as:

(i) Small administrative section;

(ii) Storage/handling areas for feedstock and products;

(iii) Effluent/waste handling/treatment area;

(iv) Control/analytical laboratory;

(v) First aid service/related medical section; and

(vi) Records associated with the movement into, around and from the site, of declared chemicals and their feedstock or product chemicals formed from them, as appropriate.

(c) "Unit" (Production unit, Process unit) means the combination of those items of equipment, including vessels and vessel set up, necessary for the production, processing or consumption of a chemical.

7. "Facility Agreement" means an agreement or arrangement between a State Party and the Organization relating to a specific facility subject to on-site verification pursuant to Articles IV, V and VI.

8. "Host State" means the State on whose territory lie facilities or areas of another State, Party to this Convention, which are subject to inspection under this Convention.

9. "In-Country Escort" means individuals specified by the inspected State Party and, if appropriate, by the Host State, if they so wish, to accompany and assist the inspection team during the in-country period.

10. "In-Country Period" means the period from the arrival of the inspection team at a point of entry until its departure from the State at a point of entry.

11. "Initial Inspection" means the first on-site inspection of facilities to verify declarations submitted pursuant to Articles III, IV, V and VI and this Annex.

12. "Inspected State Party" means the State Party on whose territory or in any other place under its jurisdiction or control an inspection pursuant to this Convention takes place, or the State Party whose facility or area on the territory of a Host State is subject to such an inspection; it does not, however, include the State Party specified in Part II, paragraph 21 of this Annex.

13. "Inspection Assistant" means an individual designated by the Technical Secretariat as set forth in Part II, Section A, of this Annex to assist inspectors in an inspection or visit, such as medical, security and administrative personnel and interpreters.

14. "Inspection Mandate" means the instructions issued by the Director-General to the inspection team for the conduct of a particular inspection.

15. "Inspection Manual" means the compilation of additional procedures for the conduct of inspections developed by the Technical Secretariat.

16. "Inspection Site" means any facility or area at which an inspection is carried out and which is specifically defined in the respective facility agreement or inspection request or mandate or inspection request as expanded by the alternative or final perimeter.

17. "Inspection Team" means the group of inspectors and inspection assistants assigned by the Director-General to conduct a particular inspection.

18. "Inspector" means an individual designated by the Technical Secretariat according to the procedures as set forth in Part II, Section A, of this Annex, to carry out an inspection or visit in accordance with this Convention.

19. "Model Agreement" means a document specifying the general form and content for an agreement concluded between a State Party and the Organization for fulfilling the verification provisions specified in this Annex.

20. "Observer" means a representative of a requesting State Party or a third State Party to observe a challenge inspection.

21. "Perimeter" in case of challenge inspection means the external boundary of the inspection site, defined by either geographic coordinates or description on a map.

(a) "Requested Perimeter" means the inspection site perimeter as specified in conformity with Part X, paragraph 8, of this Annex;

(b) "Alternative Perimeter" means the inspection site perimeter as specified, alternatively to the requested perimeter, by the inspected State Party; it shall conform to the requirements specified in Part X, paragraph 17, of this Annex;

(c) "Final Perimeter" means the final inspection site perimeter as agreed in negotiations between the inspection team and the inspected State Party, in accordance with Part X, paragraphs 16 to 21, of this Annex;

(d) "Declared Perimeter" means the external boundary of the facility declared pursuant to Articles III, IV, V and VI.

22. "Period of Inspection", for the purposes of Article IX, means the period of time from provision of access to the inspection team to the inspection site until its departure from the inspection site, exclusive of time spent on briefings before and after the verification activities.

23. "Period of Inspection", for the purposes of Articles IV, V and VI, means the period of time from arrival of the inspection team at the inspection site until its departure from the inspection site, exclusive of time spent on briefings before and after the verification activities.

24. "Point of Entry"/"Point of Exit" means a location designated for the in-country arrival of inspection teams for inspections pursuant to this Convention or for their departure after completion of their mission.

25. "Requesting State Party" means a State Party which has requested a challenge inspection pursuant to Article IX.

26. "Tonne" means metric ton, i.e. 1,000 kg.

PART II

GENERAL RULES OF VERIFICATION

A. DESIGNATION OF INSPECTORS AND INSPECTION ASSISTANTS

1. Not later than 30 days after entry into force of this Convention the Technical Secretariat shall communicate, in writing, to all States Parties the names, nationalities and ranks of the inspectors and inspection assistants proposed for designation, as well as a description of their qualifications and professional experiences.

2. Each State Party shall immediately acknowledge receipt of the list of inspectors and inspection assistants, proposed for designation communicated to it. The State Party shall inform the Technical Secretariat in writing of its acceptance of each inspector and inspection assistant, not later than 30 days after acknowledgement of receipt of the list. Any inspector and inspection assistant included in this list shall be regarded as designated unless a State Party, not later than 30 days after acknowledgement of receipt of the list, declares its non-acceptance in writing. The State Party may include the reason for the objection.

In the case of non-acceptance, the proposed inspector or inspection assistant shall not undertake or participate in verification activities on the territory or in any other place under the jurisdiction or control of the State Party which has declared its non-acceptance. The Technical Secretariat shall, as necessary, submit further proposals in addition to the original list.

3. Verification activities under this Convention shall only be performed by designated inspectors and inspection assistants.

4. Subject to the provisions of paragraph 5, a State Party has the right at any time to object to an inspector or inspection assistant who has already been designated. It shall notify the Technical Secretariat of its objection in writing and may include the reason for the objection. Such objection shall come into effect 30 days after receipt by the Technical Secretariat. The Technical Secretariat shall immediately inform the State Party concerned of the withdrawal of the designation of the inspector or inspection assistant.

5. A State Party that has been notified of an inspection shall not seek to have removed from the inspection team for that inspection any of the designated inspectors or inspection assistants named in the inspection team list.

6. The number of inspectors or inspection assistants accepted by and designated to a State Party must be sufficient to allow for availability and rotation of appropriate numbers of inspectors and inspection assistants.

7. If, in the opinion of the Director-General, the non-acceptance of proposed inspectors or inspection assistants impedes the designation of a sufficient number of inspectors or inspection assistants or otherwise hampers

the effective fulfilment of the tasks of the Technical Secretariat, the Director-General shall refer the issue to the Executive Council.

8. Whenever amendments to the above-mentioned lists of inspectors and inspection assistants are necessary or requested, replacement inspectors and inspection assistants shall be designated in the same manner as set forth with respect to the initial list.

9. The members of the inspection team carrying out an inspection of a facility of a State Party located on the territory of another State Party shall be designated in accordance with the procedures set forth in this Annex as applied both to the inspected State Party and the Host State Party.

B. PRIVILEGES AND IMMUNITIES

10. Each State Party shall, not later than 30 days after acknowledgement of receipt of the list of inspectors and inspection assistants or of changes thereto, provide multiple entry/exit and/or transit visas and other such documents to enable each inspector or inspection assistant to enter and to remain on the territory of that State Party for the purpose of carrying out inspection activities. These documents shall be valid for at least two years after their provision to the Technical Secretariat.

11. To exercise their functions effectively, inspectors and inspection assistants shall be accorded privileges and immunities as set forth in subparagraphs (a) to (i). Privileges and immunities shall be granted to members of the inspection team for the sake of this Convention and not for the personal benefit of the individuals themselves. Such privileges and immunities shall be accorded to them for the entire period between arrival on and departure from the territory of the inspected State Party or Host State, and thereafter with respect to acts previously performed in the exercise of their official functions.

(a) The members of the inspection team shall be accorded the inviolability enjoyed by diplomatic agents pursuant to Article 29 of the Vienna Convention on Diplomatic Relations of 18 April 1961.

(b) The living quarters and office premises occupied by the inspection team carrying out inspection activities pursuant to this Convention shall be accorded the inviolability and protection accorded to the premises of diplomatic agents pursuant to Article 30, paragraph 1 of the Vienna Convention on Diplomatic Relations.

(c) The papers and correspondence, including records, of the inspection team shall enjoy the inviolability accorded to all papers and correspondence of diplomatic agents pursuant to Article 30, paragraph 2 of the Vienna Convention on Diplomatic Relations. The inspection team shall have the right to use codes for their communications with the Technical Secretariat.

(d) Samples and approved equipment carried by members of the inspection team shall be inviolable subject to provisions contained in this Convention and exempt from all customs duties. Hazardous samples shall be transported in accordance with relevant regulations.

(e) The members of the inspection team shall be accorded the immunities accorded to diplomatic agents pursuant to Article 31, paragraphs 1, 2 and 3, of the Vienna Convention on Diplomatic Relations.

(f) The members of the inspection team carrying out prescribed activities pursuant to this Convention shall be accorded the exemption from dues and taxes accorded to diplomatic agents pursuant to Article 34 of the Vienna Convention on Diplomatic Relations.

(g) The members of the inspection team shall be permitted to bring into the territory of the inspected State Party or Host State Party, without payment of any customs duties or related charges, articles for personal use, with the exception of articles the import or export of which is prohibited by law or controlled by quarantine regulations.

(h) The members of the inspection team shall be accorded the same currency and exchange facilities as are accorded to representatives of foreign Governments on temporary official missions.

(i) The members of the inspection team shall not engage in any professional or commercial activity for personal profit on the territory of the inspected State Party or the Host State.

12. When transiting the territory of non-inspected States Parties, the members of the inspection team shall be accorded the privileges and immunities enjoyed by diplomatic agents pursuant to Article 40, paragraph 1, of the Vienna Convention on Diplomatic Relations. Papers and correspondence, including records, and samples and approved equipment, carried by them, shall be accorded the privileges and immunities set forth in paragraph 11 (c) and (d).

13. Without prejudice to their privileges and immunities the members of the inspection team shall be obliged to respect the laws and regulations of the inspected State Party or Host State and, to the extent that is consistent with the inspection mandate, shall be obliged not to interfere in the internal affairs of that State. If the inspected State Party or Host State Party considers that there has been an abuse of privileges and immunities specified in this Annex, consultations shall be held between the State Party and the Director-General to determine whether such an abuse has occurred and, if so determined, to prevent a repetition of such an abuse.

14. The immunity from jurisdiction of members of the inspection team may be waived by the Director-General in those cases when the Director-General is of the opinion that immunity would impede the course of justice and that it can be waived without prejudice to the implementation of the provisions of this Convention. Waiver must always be express.

15. Observers shall be accorded the same privileges and immunities accorded to inspectors pursuant to this section, except for those accorded pursuant to paragraph 11 (d).

C. STANDING ARRANGEMENTS

Points of entry

16. Each State Party shall designate the points of entry and shall supply the required information to the Technical Secretariat not later than 30 days after this Convention enters into force for it. These points of entry shall be such that the inspection team can reach any inspection site from at least one point of entry within 12 hours. Locations of points of entry shall be provided to all States Parties by the Technical Secretariat.

17. Each State Party may change the points of entry by giving notice of such change to the Technical Secretariat. Changes shall become effective 30 days after the Technical Secretariat receives such notification to allow appropriate notification to all States Parties.

18. If the Technical Secretariat considers that there are insufficient points of entry for the timely conduct of inspections or that changes to the points of entry proposed by a State Party would hamper such timely conduct of inspections, it shall enter into consultations with the State Party concerned to resolve the problem.

19. In cases where facilities or areas of an inspected State Party are located on the territory of a Host State Party or where the access from the point of entry to the facilities or areas subject to inspection requires transit through the territory of another State Party, the inspected State Party shall exercise the rights and fulfil the obligations concerning such inspections in accordance with this Annex. The Host State Party shall facilitate the inspection of those facilities or areas and shall provide for the necessary support to enable the inspection team to carry out its tasks in a timely and effective manner. States Parties through whose territory transit is required to inspect facilities or areas of an inspected State Party shall facilitate such transit.

20. In cases where facilities or areas of an inspected State Party are located on the territory of a State not Party to this Convention, the inspected State Party shall take all necessary measures to ensure that inspections of those facilities or areas can be carried out in accordance with the provisions of this Annex. A State Party that has one or more facilities or areas on the territory of a State not Party to this Convention shall take all necessary measures to ensure acceptance by the Host State of inspectors and inspection assistants designated to that State Party. If an inspected State Party is unable to ensure access, it shall demonstrate that it took all necessary measures to ensure access.

21. In cases where the facilities or areas sought to be inspected are located on the territory of a State Party, but in a place under the jurisdiction or control of a State not Party to this Convention, the State Party shall take all necessary measures as would be required of an inspected State Party and a Host State Party to ensure that inspections of such facilities or areas can be carried out in accordance with the provisions of this Annex. If the State Party is unable to ensure access to those facilities or areas, it shall demonstrate that it took all necessary measures to ensure access. This paragraph shall not apply where the facilities or areas sought to be inspected are those of the State Party.

Arrangements for use of non-scheduled aircraft

22. For inspections pursuant to Article IX and for other inspections where timely travel is not feasible using scheduled commercial transport, an inspection team may need to utilize aircraft owned or chartered by the Technical Secretariat. Not later than 30 days after this Convention enters into force for it, each State Party shall inform the Technical Secretariat of the standing diplomatic clearance number for non-scheduled aircraft transporting inspection teams and equipment necessary for inspection into and out of the territory in which an inspection site is located. Aircraft routings to and from the designated point of entry shall be along established international airways that are agreed upon between the States Parties and the Technical Secretariat as the basis for such diplomatic clearance.

23. When a non-scheduled aircraft is used, the Technical Secretariat shall provide the inspected State Party with a flight plan, through the National Authority, for the aircraft's flight from the last airfield prior to entering the airspace of the State in which the inspection site is located to the point of entry, not less than six hours before the scheduled departure time from that airfield. Such a plan shall be filed in accordance with the procedures of the International Civil Aviation Organization applicable to civil aircraft. For its owned or chartered flights, the Technical Secretariat shall include in the remarks section of each flight plan the standing diplomatic clearance number and the appropriate notation identifying the aircraft as an inspection aircraft.

24. Not less than three hours before the scheduled departure of the inspection team from the last airfield prior to entering the airspace of the State in which the inspection is to take place, the inspected State Party or Host State Party shall ensure that the flight plan filed in accordance with paragraph 23 is approved so that the inspection team may arrive at the point of entry by the estimated arrival time.

25. The inspected State Party shall provide parking, security protection, servicing and fuel as required by the Technical Secretariat for the aircraft of the inspection team at the point of entry when such aircraft is owned or chartered by the Technical Secretariat. Such aircraft shall not be liable for landing fees, departure tax, and similar charges. The Technical Secretariat shall bear the cost of such fuel, security protection and servicing.

Administrative arrangements

26. The inspected State Party shall provide or arrange for the amenities necessary for the inspection team such as communication means, interpretation services to the extent necessary for the performance of interviewing and other tasks, transportation, working space, lodging, meals and medical care. In this regard, the inspected State Party shall be reimbursed by the Organization for such costs incurred by the inspection team.

Approved equipment

27. Subject to paragraph 29, there shall be no restriction by the inspected State Party on the inspection team bringing onto the inspection site such equipment, approved in accordance with paragraph 28, which the Technical Secretariat has determined to be necessary to fulfil the inspection requirements. The Technical Secretariat shall prepare and, as appropriate, update a list of approved equipment, which may be needed for the purposes described above, and regulations governing such equipment which shall be in accordance with this Annex. In establishing the list of approved equipment and these regulations, the Technical Secretariat shall ensure that safety considerations for all the types of facilities at which such equipment is likely to be used, are taken fully into account. A list of approved equipment shall be considered and approved by the Conference pursuant to Article VIII, paragraph 21 (i).

28. The equipment shall be in the custody of the Technical Secretariat and be designated, calibrated and approved by the Technical Secretariat. The Technical Secretariat shall, to the extent possible, select that equipment which is specifically designed for the specific kind of inspection required. Designated and approved equipment shall be specifically protected against unauthorized alteration.

29. The inspected State Party shall have the right, without prejudice to the prescribed time-frames, to inspect the equipment in the presence of inspection team members at the point of entry, i.e., to check the identity of the equipment brought in or removed from the territory of the inspected State Party or the Host State. To facilitate such identification, the Technical Secretariat shall attach documents and devices to authenticate its designation and approval of the equipment. The inspection of the equipment shall also ascertain to the satisfaction of the inspected State Party that the equipment meets the description of the approved equipment for the particular type of inspection. The inspected State Party may exclude equipment not meeting that description or equipment without the above-mentioned authentication documents and devices. Procedures for the inspection of equipment shall be considered and approved by the Conference pursuant to Article VIII, paragraph 21 (i).

30. In cases where the inspection team finds it necessary to use equipment available on site not belonging to the Technical Secretariat and requests the inspected State Party to enable the team to use such equipment, the inspected State Party shall comply with the request to the extent it can.

D. PRE-INSPECTION ACTIVITIES

Notification

31. The Director-General shall notify the State Party before the planned arrival of the inspection team at the point of entry and within the prescribed time-frames, where specified, of its intention to carry out an inspection.

32. Notifications made by the Director-General shall include the following information:

(a) The type of inspection;

(b) The point of entry;

(c) The date and estimated time of arrival at the point of entry;

(d) The means of arrival at the point of entry;

(e) The site to be inspected;

(f) The names of inspectors and inspection assistants;

(g) If appropriate, aircraft clearance for special flights.

33. The inspected State Party shall acknowledge the receipt of a notification by the Technical Secretariat of an intention to conduct an inspection, not later than one hour after receipt of such notification.

34. In the case of an inspection of a facility of a State Party located on the territory of another State Party, both States Parties shall be simultaneously notified in accordance with paragraphs 31 and 32.

Entry into the territory of the inspected State Party or Host State and transfer to the inspection site

35. The inspected State Party or Host State Party which has been notified of the arrival of an inspection team, shall ensure its immediate entry into the territory and shall through an in-country escort or by other means do everything in its power to ensure the safe conduct of the inspection team and its equipment and supplies, from its point of entry to the inspection site(s) and to a point of exit.

36. The inspected State Party or Host State Party shall, as necessary, assist the inspection team in reaching the inspection site not later than 12 hours after the arrival at the point of entry.

Pre-inspection briefing

37. Upon arrival at the inspection site and before the commencement of the inspection, the inspection team shall be briefed by facility representatives, with the aid of maps and other documentation as appropriate, on the facility, the activities carried out there, safety measures and administrative and logistic arrangements necessary for the inspection. The time spent for the briefing shall be limited to the minimum necessary and in any event not exceed three hours.

E. CONDUCT OF INSPECTIONS

General rules

38. The members of the inspection team shall discharge their functions in accordance with the provisions of this Convention, as well as rules established by the Director-General and facility agreements concluded between States Parties and the Organization.

39. The inspection team shall strictly observe the inspection mandate issued by the Director-General. It shall refrain from activities going beyond this mandate.

40. The activities of the inspection team shall be so arranged as to ensure the timely and effective discharge of its functions and the least possible inconvenience to the inspected State Party or Host State and disturbance to the facility or area inspected. The inspection team shall avoid unnecessarily hampering or delaying the operation of a facility and avoid affecting its safety. In particular, the inspection team shall not operate any facility. If inspectors consider that, to fulfil their mandate, particular operations should be carried out in a facility, they shall request the designated representative of the inspected facility to have them performed. The representative shall carry out the request to the extent possible.

41. In the performance of their duties on the territory of an inspected State Party or Host State, the members of the inspection team shall, if the inspected State Party so requests, be accompanied by representatives of the inspected State Party, but the inspection team must not thereby be delayed or otherwise hindered in the exercise of its functions.

42. Detailed procedures for the conduct of inspections shall be developed for inclusion in the inspection manual by the Technical Secretariat, taking into account guidelines to be considered and approved by the Conference pursuant to Article VIII, paragraph 21 (i).

Safety

43. In carrying out their activities, inspectors and inspection assistants shall observe safety regulations established at the inspection site, including those for the protection of controlled environments within a facility and for

personal safety. In order to implement these requirements, appropriate detailed procedures shall be considered and approved by the Conference pursuant to Article VIII, paragraph 21 (i).

Communications

44. Inspectors shall have the right throughout the in-country period to communicate with the Headquarters of the Technical Secretariat. For this purpose they may use their own, duly certified, approved equipment and may request that the inspected State Party or Host State Party provide them with access to other telecommunications. The inspection team shall have the right to use its own two-way system of radio communications between personnel patrolling the perimeter and other members of the inspection team.

Inspection team and inspected State Party rights

45. The inspection team shall, in accordance with the relevant Articles and Annexes of this Convention as well as with facility agreements and procedures set forth in the inspection manual, have the right to unimpeded access to the inspection site. The items to be inspected will be chosen by the inspectors.

46. Inspectors shall have the right to interview any facility personnel in the presence of representatives of the inspected State Party with the purpose of establishing relevant facts. Inspectors shall only request information and data which are necessary for the conduct of the inspection, and the inspected State Party shall furnish such information upon request. The inspected State Party shall have the right to object to questions posed to the facility personnel if those questions are deemed not relevant to the inspection. If the head of the inspection team objects and states their relevance, the questions shall be provided in writing to the inspected State Party for reply. The inspection team may note any refusal to permit interviews or to allow questions to be answered and any explanations given, in that part of the inspection report that deals with the cooperation of the inspected State Party.

47. Inspectors shall have the right to inspect documentation and records they deem relevant to the conduct of their mission.

48. Inspectors shall have the right to have photographs taken at their request by representatives of the inspected State Party or of the inspected facility. The capability to take instant development photographic prints shall be available. The inspection team shall determine whether photographs conform to those requested and, if not, repeat photographs shall be taken. The inspection team and the inspected State Party shall each retain one copy of every photograph.

49. The representatives of the inspected State Party shall have the right to observe all verification activities carried out by the inspection team.

50. The inspected State Party shall receive copies, at its request, of the information and data gathered about its facility(ies) by the Technical Secretariat.

51. Inspectors shall have the right to request clarifications in connection with ambiguities that arise during an inspection. Such requests shall be made promptly through the representative of the inspected State Party. The representative of the inspected State Party shall provide the inspection team, during the inspection, with such clarification as may be necessary to remove the ambiguity. If questions relating to an object or a building located within the inspection site are not resolved, the object or building shall, if requested, be photographed for the purpose of clarifying its nature and function. If the ambiguity cannot be removed during the inspection, the inspectors shall notify the Technical Secretariat immediately. The inspectors shall include in the inspection report any such unresolved question, relevant clarifications, and a copy of any photographs taken.

Collection, handling and analysis of samples

52. Representatives of the inspected State Party or of the inspected facility shall take samples at the request of the inspection team in the presence of inspectors. If so agreed in advance with the representatives of the inspected State Party or of the inspected facility, the inspection team may take samples itself.

53. Where possible, the analysis of samples shall be performed on-site. The inspection team shall have the right to perform on-site analysis of samples using approved equipment brought by it. At the request of the inspection team, the inspected State Party shall, in accordance with agreed procedures, provide assistance for the analysis of samples on-site. Alternatively, the inspection team may request that appropriate analysis on-site be performed in its presence.

54. The inspected State Party has the right to retain portions of all samples taken or take duplicate samples and be present when samples are analysed on-site.

55. The inspection team shall, if it deems it necessary, transfer samples for analysis off-site at laboratories designated by the Organization.

56. The Director-General shall have the primary responsibility for the security, integrity and preservation of samples and for ensuring that the confidentiality of samples transferred for analysis off-site is protected. The Director-General shall do so in accordance with procedures, to be considered and approved by the Conference pursuant to Article VIII, paragraph 21 (i), for inclusion in the inspection manual. He shall:

(a) Establish a stringent regime governing the collection, handling, transport and analysis of samples;

(b) Certify the laboratories designated to perform different types of analysis;

(c) Oversee the standardization of equipment and procedures at these designated laboratories, mobile analytical equipment and procedures, and monitor quality control and overall standards in relation to the certification of these laboratories, mobile equipment and procedures; and

(d) Select from among the designated laboratories those which shall perform analytical or other functions in relation to specific investigations.

57. When off-site analysis is to be performed, samples shall be analysed in at least two designated laboratories. The Technical Secretariat shall ensure the expeditious processing of the analysis. The samples shall be accounted for by the Technical Secretariat and any unused samples or portions thereof shall be returned to the Technical Secretariat.

58. The Technical Secretariat shall compile the results of the laboratory analysis of samples relevant to compliance with this Convention and include them in the final inspection report. The Technical Secretariat shall include in the report detailed information concerning the equipment and methodology employed by the designated laboratories.

Extension of inspection duration

59. Periods of inspection may be extended by agreement with the representative of the inspected State Party.

Debriefing

60. Upon completion of an inspection the inspection team shall meet with representatives of the inspected State Party and the personnel responsible for the inspection site to review the preliminary findings of the inspection team and to clarify any ambiguities. The inspection team shall provide to the representatives of the inspected State Party its preliminary findings in written form according to a standardized format, together with a list of any samples and copies of written information and data gathered and other material to be taken off site. The document shall be signed by the head of the inspection team. In order to indicate that he has taken notice of the contents of the document, the representative of the inspected State Party shall countersign the document. This meeting shall be completed not later than 24 hours after the completion of the inspection.

F. DEPARTURE

61. Upon completion of the post-inspection procedures, the inspection team shall leave, as soon as possible, the territory of the inspected State Party or the Host State.

G. REPORTS

62. Not later than 10 days after the inspection, the inspectors shall prepare a factual, final report on the activities conducted by them and on their findings. It shall only contain facts relevant to compliance with this Convention, as provided for under the inspection mandate. The report shall also provide information as to the manner in which the State Party inspected cooperated with the inspection team. Differing observations made by inspectors may be attached to the report. The report shall be kept confidential.

63. The final report shall immediately be submitted to the inspected State Party. Any written comments, which the inspected State Party may immediately make on its findings shall be annexed to it. The final report together with annexed comments made by the inspected State Party shall be submitted to the Director-General not later than 30 days after the inspection.

64. Should the report contain uncertainties, or should cooperation between the National Authority and the inspectors not measure up to the standards required, the Director-General shall approach the State Party for clarification.

65. If the uncertainties cannot be removed or the facts established are of a nature to suggest that obligations undertaken under this Convention have not been met, the Director-General shall inform the Executive Council without delay.

H. APPLICATION OF GENERAL PROVISIONS

66. The provisions of this Part shall apply to all inspections conducted pursuant to this Convention, except where the provisions of this Part differ from the provisions set forth for specific types of inspections in Parts III to XI of this Annex, in which case the latter provisions shall take precedence.

PART III

GENERAL PROVISIONS FOR VERIFICATION MEASURES PURSUANT TO ARTICLES IV, V AND VI, PARAGRAPH 3

A. INITIAL INSPECTIONS AND FACILITY AGREEMENTS

1. Each declared facility subject to on-site inspection pursuant to Articles IV, V, and VI, paragraph 3, shall receive an initial inspection promptly after the facility is declared. The purpose of this inspection of the facility shall be to verify information provided and to obtain any additional information needed for planning future verification activities at the facility, including on-site inspections and continuous monitoring with on-site instruments, and to work on the facility agreements.

2. States Parties shall ensure that the verification of declarations and the initiation of the systematic verification measures can be accomplished by the Technical Secretariat at all facilities within the established time-frames after this Convention enters into force for them.

3. Each State Party shall conclude a facility agreement with the Organization for each facility declared and subject to on-site inspection pursuant to Articles IV, V, and VI, paragraph 3.

4. Facility agreements shall be completed not later than 180 days after this Convention enters into force for the State Party or after the facility has been declared for the first time, except for a chemical weapons destruction facility to which paragraphs 5 to 7 shall apply.

5. In the case of a chemical weapons destruction facility that begins operations more than one year after this Convention enters into force for the State Party, the facility agreement shall be completed not less than 180 days before the facility begins operation.

6. In the case of a chemical weapons destruction facility that is in operation when this Convention enters into force for the State Party, or begins operation not later than one year thereafter, the facility agreement shall be completed not later than 210 days after this Convention enters into force for the State Party, except that the Executive Council may decide that transitional verification arrangements, approved in accordance with Part IV (A), paragraph 51, of this Annex and including a transitional facility agreement, provisions for verification through on-site inspection and monitoring with on-site instruments, and the time-frame for application of the arrangements, are sufficient.

7. In the case of a facility, referred to in paragraph 6, that will cease operations not later than two years after this Convention enters into force for the State Party, the Executive Council may decide that transitional

verification arrangements, approved in accordance with Part IV (A), paragraph 51, of this Annex and including a transitional facility agreement, provisions for verification through on-site inspection and monitoring with on-site instruments, and the time-frame for application of the arrangements, are sufficient.

8. Facility agreements shall be based on models for such agreements and provide for detailed arrangements which shall govern inspections at each facility. The model agreements shall include provisions to take into account future technological developments and shall be considered and approved by the Conference pursuant to Article VIII, paragraph 21 (i).

9. The Technical Secretariat may retain at each site a sealed container for photographs, plans and other information that it may wish to refer to in the course of subsequent inspections.

B. STANDING ARRANGEMENTS

10. Where applicable, the Technical Secretariat shall have the right to have continuous monitoring instruments and systems and seals installed and to use them, in conformity with the relevant provisions in this Convention and the facility agreements between States Parties and the Organization.

11. The inspected State Party shall, in accordance with agreed procedures, have the right to inspect any instrument used or installed by the inspection team and to have it tested in the presence of representatives of the inspected State Party. The inspection team shall have the right to use the instruments that were installed by the inspected State Party for its own monitoring of the technological process of the destruction of chemical weapons. To this end, the inspection team shall have the right to inspect those instruments that it intends to use for purposes of verification of the destruction of chemical weapons and to have them tested in its presence.

12. The inspected State Party shall provide the necessary preparation and support for the establishment of continuous monitoring instruments and systems.

13. In order to implement paragraphs 11 and 12, appropriate detailed procedures shall be considered and approved by the Conference pursuant to Article VIII, paragraph 21 (i).

14. The inspected State Party shall immediately notify the Technical Secretariat if an event occurs or may occur at a facility where monitoring instruments are installed, which may have an impact on the monitoring system. The inspected State Party shall coordinate subsequent actions with the Technical Secretariat with a view to restoring the operation of the monitoring system and establishing interim measures, if necessary, as soon as possible.

15. The inspection team shall verify during each inspection that the monitoring system functions correctly and that emplaced seals have not been tampered with. In addition, visits to service the monitoring system may be required to perform any necessary maintenance or replacement of equipment, or to adjust the coverage of the monitoring system as required.

16. If the monitoring system indicates any anomaly, the Technical Secretariat shall immediately take action to determine whether this resulted from equipment malfunction or activities at the facility. If, after this examination, the problem remains unresolved, the Technical Secretariat shall immediately ascertain the actual situation, including through immediate on-site inspection of, or visit to, the facility if necessary. The Technical Secretariat shall report any such problem immediately after its detection to the inspected State Party which shall assist in its resolution.

C. PRE-INSPECTION ACTIVITIES

17. The inspected State Party shall, except as specified in paragraph 18, be notified of inspections not less than 24 hours in advance of the planned arrival of the inspection team at the point of entry.

18. The inspected State Party shall be notified of initial inspections not less than 72 hours in advance of the estimated time of arrival of the inspection team at the point of entry.

PART IV (A)

DESTRUCTION OF CHEMICAL WEAPONS AND ITS VERIFICATION PURSUANT TO ARTICLE IV

A. DECLARATIONS

Chemical Weapons

1. The declaration of chemical weapons by a State Party pursuant to Article III, paragraph 1 (a) (ii), shall include the following:

(a) The aggregate quantity of each chemical declared;

(b) The precise location of each chemical weapons storage facility, expressed by:

(i) Name;

(ii) Geographical coordinates; and

(iii) A detailed site diagram, including a boundary map and the location of bunkers/storage areas within the facility.

(c) The detailed inventory for each chemical weapons storage facility including:

(i) Chemicals defined as chemical weapons in accordance with Article II;

(ii) Unfilled munitions, sub-munitions, devices and equipment defined as chemical weapons;

(iii) Equipment specially designed for use directly in connection with the employment of munitions, sub-munitions, devices or equipment specified in sub-subparagraph (ii);

(iv) Chemicals specifically designed for use directly in connection with the employment of munitions, sub-munitions, devices or equipment specified in sub-subparagraph (ii).

2. For the declaration of chemicals referred to in paragraph 1 (c) (i) the following shall apply:

(a) Chemicals shall be declared in accordance with the Schedules specified in the Annex on Chemicals;

(b) For a chemical not listed in the Schedules in the Annex on Chemicals the information required for possible assignment of the chemical to the appropriate Schedule shall be provided, including the toxicity of the pure compound. For a precursor, the toxicity and identity of the principal final reaction product(s) shall be provided;

(c) Chemicals shall be identified by chemical name in accordance with current International Union of Pure and Applied Chemistry (IUPAC) nomenclature, structural formula and Chemical Abstracts Service registry number, if assigned. For a precursor, the toxicity and identity of the principal final reaction product(s) shall be provided;

(d) In cases involving mixtures of two or more chemicals, each chemical shall be identified and the percentage of each shall be provided, and the mixture shall be declared under the category of the most toxic chemical. If a component of a binary chemical weapon consists of a mixture of two or more chemicals, each chemical shall be identified and the percentage of each provided;

(e) Binary chemical weapons shall be declared under the relevant end product within the framework of the categories of chemical weapons referred to in paragraph 16. The following supplementary information shall be provided for each type of binary chemical munition/device:

(i) The chemical name of the toxic end-product;

(ii) The chemical composition and quantity of each component;

(iii) The actual weight ratio between the components;

(iv) Which component is considered the key component;

(v) The projected quantity of the toxic end-product calculated on a stoichiometric basis from the key component, assuming 100 per cent yield. A declared quantity (in tonnes) of the key component intended for a specific toxic end-product shall be considered equivalent to the quantity (in tonnes) of this toxic end-product calculated on a stoichiometric basis assuming 100 per cent yield.

(f) For multicomponent chemical weapons, the declaration shall be analogous to that envisaged for binary chemical weapons;

(g) For each chemical the form of storage, i.e. munitions, sub-munitions, devices, equipment or bulk containers and other containers shall be declared. For each form of storage the following shall be listed:

(i) Type;

(ii) Size or calibre;

(iii) Number of items; and

(iv) Nominal weight of chemical fill per item.

(h) For each chemical the total weight present at the storage facility shall be declared;

(i) In addition, for chemicals stored in bulk, the percentage purity shall be declared, if known.

3. For each type of unfilled munitions, sub-munitions, devices or equipment, referred to in paragraph 1 (c) (ii), the information shall include:

(a) The number of items;

(b) The nominal fill volume per item;

(c) The intended chemical fill.

Declarations of chemical weapons pursuant to Article III, paragraph 1 (a) (iii)

4. The declaration of chemical weapons pursuant to Article III, paragraph 1 (a) (iii), shall contain all information specified in paragraphs 1 to 3 above. It is the responsibility of the State Party on whose territory the chemical weapons are located to make appropriate arrangements with the other State to ensure that the declarations are made. If the State Party on whose territory the chemical weapons are located is not able to fulfil its obligations under this paragraph, it shall state the reasons therefor.

Declarations of past transfers and receipts

5. A State Party that has transferred or received chemical weapons since 1 January 1946 shall declare these transfers or receipts pursuant to Article III, paragraph 1 (a) (iv), provided the amount transferred or received exceeded 1 tonne per chemical per year in bulk and/or munition form. This declaration shall be made according to the inventory format specified in paragraphs 1 and 2. This declaration shall also indicate the supplier and recipient countries, the dates of the transfers or receipts and, as precisely as possible, the current location of the transferred items. When not all the specified information is available for transfers or receipts of chemical weapons for the period between 1 January 1946 and 1 January 1970, the State Party shall declare whatever information is still available to it and provide an explanation as to why it cannot submit a full declaration.

Submission of the general plan for destruction of chemical weapons

6. The general plan for destruction of chemical weapons submitted pursuant to Article III, paragraph 1 (a) (v), shall provide an overview of the entire national chemical weapons destruction programme of the State Party and information on the efforts of the State Party to fulfil the destruction requirements contained in this Convention. The plan shall specify:

(a) A general schedule for destruction, giving types and approximate quantities of chemical weapons planned to be destroyed in each annual destruction period for each existing chemical weapons destruction facility and, if possible, for each planned chemical weapons destruction facility;

(b) The number of chemical weapons destruction facilities existing or planned to be operated over the destruction period;

(c) For each existing or planned chemical weapons destruction facility:

- (i) Name and location; and
- (ii) The types and approximate quantities of chemical weapons, and the type (for example, nerve agent or blister agent) and approximate quantity of chemical fill, to be destroyed;

(d) The plans and programmes for training personnel for the operation of destruction facilities;

(e) The national standards for safety and emissions that the destruction facilities must satisfy;

(f) Information on the development of new methods for destruction of chemical weapons and on the improvement of existing methods;

(g) The cost estimates for destroying the chemical weapons; and

(h) Any issues which could adversely impact on the national destruction programme.

B. MEASURES TO SECURE THE STORAGE FACILITY AND STORAGE FACILITY PREPARATION

7. Not later than when submitting its declaration of chemical weapons, a State Party shall take such measures as it considers appropriate to secure its storage facilities and shall prevent any movement of its chemical weapons out of the facilities, except their removal for destruction.

8. A State Party shall ensure that chemical weapons at its storage facilities are configured to allow ready access for verification in accordance with paragraphs 37 to 49.

9. While a storage facility remains closed for any movement of chemical weapons out of the facility other than their removal for destruction, a State Party may continue at the facility standard maintenance activities, including standard maintenance of chemical weapons; safety monitoring and physical security activities; and preparation of chemical weapons for destruction.

10. Maintenance activities of chemical weapons shall not include:

(a) Replacement of agent or of munition bodies;

(b) Modification of the original characteristics of munitions, or parts or components thereof.

11. All maintenance activities shall be subject to monitoring by the Technical Secretariat.

C. DESTRUCTION

Principles and methods for destruction of chemical weapons

12. "Destruction of chemical weapons" means a process by which chemicals are converted in an essentially irreversible way to a form unsuitable for production of chemical weapons, and which in an irreversible manner renders munitions and other devices unusable as such.

13. Each State Party shall determine how it shall destroy chemical weapons, except that the following processes may not be used: dumping in any body of water, land burial or open-pit burning. It shall destroy chemical weapons only at specifically designated and appropriately designed and equipped facilities.

14. Each State Party shall ensure that its chemical weapons destruction facilities are constructed and operated in a manner to ensure the destruction of the chemical weapons; and that the destruction process can be verified under the provisions of this Convention.

Order of destruction

15. The order of destruction of chemical weapons is based on the obligations specified in Article I and the other Articles, including obligations regarding systematic on-site verification. It takes into account interests of States Parties for undiminished security during the destruction period; confidence-building in the early part of the destruction stage; gradual acquisition of experience in the course of destroying chemical weapons; and applicability irrespective of the actual composition of the stockpiles and the methods choser for the destruction of the chemical weapons. The order of destruction is based on the principle of levelling out.

16. For the purpose of destruction, chemical weapons declared by each State Party shall be divided into three categories:

Category 1: Chemical weapons on the basis of Schedule 1 chemicals and their parts and components;

Category 2: Chemical weapons on the basis of all other chemicals and their parts and components;

Category 3: Unfilled munitions and devices, and equipment specifically designed for use directly in connection with employment of chemical weapons.

17. A State Party shall start:

(a) The destruction of Category 1 chemical weapons not later than two years after this Convention enters into force for it, and shall complete the destruction not later than 10 years after entry into force of this Convention. A State Party shall destroy chemical weapons in accordance with the following destruction deadlines:

(i) Phase 1: Not later than two years after entry into force of this Convention, testing of its first destruction facility shall be completed. Not less than 1 per cent of the Category 1 chemical weapons shall be destroyed not later than three years after the entry into force of this Convention;

(ii) Phase 2: Not less than 20 per cent of the Category 1 chemical weapons shall be destroyed not later than five years after the entry into force of this Convention;

(iii) Phase 3: Not less than 45 per cent of the Category 1 chemical weapons shall be destroyed not later than seven years after the entry into force of this Convention;

(iv) Phase 4: All Category 1 chemical weapons shall be destroyed not later than ten years after the entry into force of this Convention.

(b) The destruction of Category 2 chemical weapons not later than one year after this Convention enters into force for it and shall complete the destruction not later than five years after the entry into force of this Convention. Category 2 chemical weapons shall be destroyed in equal annual increments throughout the destruction period. The comparison factor for such weapons is the weight of the chemicals within Category 2; and

(c) The destruction of Category 3 chemical weapons not later than one year after this Convention enters into force for it, and shall complete the destruction not later than five years after the entry into force of this Convention. Category 3 chemical weapons shall be destroyed in equal annual increments throughout the destruction period. The comparison factor for unfilled munitions and devices is expressed in nominal fill volume (m^3) and for equipment in number of items.

18. For the destruction of binary chemical weapons the following shall apply:

(a) For the purposes of the order of destruction, a declared quantity (in tonnes) of the key component intended for a specific toxic end-product shall be considered equivalent to the quantity (in tonnes) of this toxic end-product calculated on a stoichiometric basis assuming 100 per cent yield.

(b) A requirement to destroy a given quantity of the key component shall entail a requirement to destroy a corresponding quantity of the other component, calculated from the actual weight ratio of the components in the relevant type of binary chemical munition/device.

(c) If more of the other component is declared than is needed, based on the actual weight ratio between components, the excess shall be destroyed over the first two years after destruction operations begin.

(d) At the end of each subsequent operational year a State Party may retain an amount of the other declared component that is determined on the basis of the actual weight ratio of the components in the relevant type of binary chemical munition/device.

19. For multicomponent chemical weapons the order of destruction shall be analogous to that envisaged for binary chemical weapons.

Modification of intermediate destruction deadlines

20. The Executive Council shall review the general plans for destruction of chemical weapons, submitted pursuant to Article III, paragraph 1 (a) (v), and in accordance with paragraph 6, inter alia, to assess their conformity with the order of destruction set forth in paragraphs 15 to 19. The Executive Council shall consult with any State Party whose plan does not conform, with the objective of bringing the plan into conformity.

21. If a State Party, due to exceptional circumstances beyond its control, believes that it cannot achieve the level of destruction specified for Phase 1, Phase 2 or Phase 3 of the order of destruction of Category 1 chemical weapons, it may propose changes in those levels. Such a proposal must be made not later than 120 days after the entry into force of this Convention and shall contain a detailed explanation of the reasons for the proposal.

22. Each State Party shall take all necessary measures to ensure destruction of Category 1 chemical weapons in accordance with the destruction deadlines set forth in paragraph 17 (a) as changed pursuant to paragraph 21. However,

if a State Party believes that it will be unable to ensure the destruction of the percentage of Category 1 chemical weapons required by an intermediate destruction deadline, it may request the Executive Council to recommend to the Conference to grant an extension of its obligation to meet that deadline. Such a request must be made not less than 180 days before the intermediate destruction deadline and shall contain a detailed explanation of the reasons for the request and the plans of the State Party for ensuring that it will be able to fulfil its obligation to meet the next intermediate destruction deadline.

23. If an extension is granted, the State Party shall still be under the obligation to meet the cumulative destruction requirements set forth for the next destruction deadline. Extensions granted pursuant to this Section shall not, in any way, modify the obligation of the State Party to destroy all Category 1 chemical weapons not later than 10 years after the entry into force of this Convention.

Extension of the deadline for completion of destruction

24. If a State Party believes that it will be unable to ensure the destruction of all Category 1 chemical weapons not later than 10 years after the entry into force of this Convention, it may submit a request to the Executive Council for an extension of the deadline for completing the destruction of such chemical weapons. Such a request must be made not later than nine years after the entry into force of this Convention.

25. The request shall contain:

(a) The duration of the proposed extension;

(b) A detailed explanation of the reasons for the proposed extension; and

(c) A detailed plan for destruction during the proposed extension and the remaining portion of the original 10-year period for destruction.

26. A decision on the request shall be taken by the Conference at its next session, on the recommendation of the Executive Council. Any extension shall be the minimum necessary, but in no case shall the deadline for a State Party to complete its destruction of all chemical weapons be extended beyond 15 years after the entry into force of this Convention. The Executive Council shall set conditions for the granting of the extension, including the specific verification measures deemed necessary as well as specific actions to be taken by the State Party to overcome problems in its destruction programme. Costs of verification during the extension period shall be allocated in accordance with Article IV, paragraph 16.

27. If an extension is granted, the State Party shall take appropriate measures to meet all subsequent deadlines.

28. The State Party shall continue to submit detailed annual plans for destruction in accordance with paragraph 29 and annual reports on the destruction of Category 1 chemical weapons in accordance with paragraph 36, until all Category 1 chemical weapons are destroyed. In addition, not later than at the end of each 90 days of the extension period, the State Party shall report to the Executive Council on its destruction activity. The Executive Council shall review progress towards completion of destruction and take the necessary measures to document this progress. All information concerning the destruction activities during the extension period shall be provided by the Executive Council to States Parties, upon request.

Detailed annual plans for destruction

29. The detailed annual plans for destruction shall be submitted to the Technical Secretariat not less than 60 days before each annual destruction period begins pursuant to Article IV, paragraph 7 (a), and shall specify:

(a) The quantity of each specific type of chemical weapon to be destroyed at each destruction facility and the inclusive dates when the destruction of each specific type of chemical weapon will be accomplished;

(b) The detailed site diagram for each chemical weapons destruction facility and any changes to previously submitted diagrams; and

(c) The detailed schedule of activities for each chemical weapons destruction facility for the upcoming year, identifying time required for design, construction or modification of the facility, installation of equipment, equipment check-out and operator training, destruction operations for each specific type of chemical weapon, and scheduled periods of inactivity.

30. A State Party shall provide, for each of its chemical weapons destruction facilities, detailed facility information to assist the Technical Secretariat in developing preliminary inspection procedures for use at the facility.

31. The detailed facility information for each destruction facility shall include the following information:

(a) Name, address and location;

(b) Detailed, annotated facility drawings;

(c) Facility design drawings, process drawings, and piping and instrumentation design drawings;

(d) Detailed technical descriptions, including design drawings and instrument specifications, for the equipment required for: removing the chemical fill from the munitions, devices, and containers; temporarily storing the drained chemical fill; destroying the chemical agent; and destroying the munitions, devices, and containers;

(e) Detailed technical descriptions of the destruction process, including material flow rates, temperatures and pressures, and designed destruction efficiency;

(f) Design capacity for each specific type of chemical weapon;

(g) A detailed description of the products of destruction and the method of their ultimate disposal;

(h) A detailed technical description of measures to facilitate inspections in accordance with this Convention;

(i) A detailed description of any temporary holding area at the destruction facility that will be used to provide chemical weapons directly to the destruction facility, including site and facility drawings and information on the storage capacity for each specific type of chemical weapon to be destroyed at the facility;

(j) A detailed description of the safety and medical measures in force at the facility;

(k) A detailed description of the living quarters and working premises for the inspectors; and

(l) Suggested measures for international verification.

32. A State Party shall provide, for each of its chemical weapons destruction facilities, the plant operations manuals, the safety and medical plans, the laboratory operations and quality assurance and control manuals, and the environmental permits that have been obtained, except that this shall not include material previously provided.

33. A State Party shall promptly notify the Technical Secretariat of any developments that could affect inspection activities at its destruction facilities.

34. Deadlines for submission of the information specified in paragraphs 30 to 32 shall be considered and approved by the Conference pursuant to Article VIII, paragraph 21 (i).

35. After a review of the detailed facility information for each destruction facility, the Technical Secretariat, if the need arises, shall enter into consultation with the State Party concerned in order to ensure that its chemical weapons destruction facilities are designed to assure the destruction of chemical weapons, to allow advanced planning on how verification measures may be applied and to ensure that the application of verification measures is consistent with proper facility operation, and that the facility operation allows appropriate verification.

Annual reports on destruction

36. Information regarding the implementation of plans for destruction of chemical weapons shall be submitted to the Technical Secretariat pursuant to Article IV, paragraph 7 (b), not later than 60 days after the end of each annual destruction period and shall specify the actual amounts of chemical weapons which were destroyed during the previous year at each destruction facility. If appropriate, reasons for not meeting destruction goals should be stated.

D. VERIFICATION

Verification of declarations of chemical weapons through on-site inspection

37. The purpose of the verification of declarations of chemical weapons shall be to confirm through on-site inspection the accuracy of the relevant declarations made pursuant to Article III.

38. The inspectors shall conduct this verification promptly after a declaration is submitted. They shall, *inter alia*, verify the quantity and identity of chemicals, types and number of munitions, devices and other equipment.

39. The inspectors shall employ, as appropriate, agreed seals, markers or other inventory control procedures to facilitate an accurate inventory of the chemical weapons at each storage facility.

40. As the inventory progresses, inspectors shall install such agreed seals as may be necessary to clearly indicate if any stocks are removed, and to ensure the securing of the storage facility during the inventory. After completion of the inventory, such seals will be removed unless otherwise agreed.

Systematic verification of storage facilities

41. The purpose of the systematic verification of storage facilities shall be to ensure that no undetected removal of chemical weapons from such facilities takes place.

42. The systematic verification shall be initiated as soon as possible after the declaration of chemical weapons is submitted and shall continue until all chemical weapons have been removed from the storage facility. It shall in accordance with the facility agreement, combine on-site inspection and monitoring with on-site instruments.

43. When all chemical weapons have been removed from the storage facility, the Technical Secretariat shall confirm the declaration of the State Party to that effect. After this confirmation, the Technical Secretariat shall terminate the systematic verification of the storage facility and shall promptly remove any monitoring instruments installed by the inspectors.

Inspections and visits

44. The particular storage facility to be inspected shall be chosen by the Technical Secretariat in such a way as to preclude the prediction of precisely when the facility is to be inspected. The guidelines for determining the frequency of systematic on-site inspections shall be elaborated by the Technical Secretariat, taking into account the recommendations to be considered and approved by the Conference pursuant to Article VIII, paragraph 21 (i).

45. The Technical Secretariat shall notify the inspected State Party of its decision to inspect or visit the storage facility 48 hours before the planned arrival of the inspection team at the facility for systematic inspections or visits. In cases of inspections or visits to resolve urgent problems, this period may be shortened. The Technical Secretariat shall specify the purpose of the inspection or visit.

46. The inspected State Party shall make any necessary preparations for the arrival of the inspectors and shall ensure their expeditious transportation from their point of entry to the storage facility. The facility agreement will specify administrative arrangements for inspectors.

47. The inspected State Party shall provide the inspection team upon its arrival at the chemical weapons storage facility to carry out an inspection, with the following data on the facility:

(a) The number of storage buildings and storage locations;

(b) For each storage building and storage location, the type and the identification number or designation, shown on the site diagram; and

(c) For each storage building and storage location at the facility, the number of items of each specific type of chemical weapon, and, for containers that are not part of binary munitions, the actual quantity of chemical fill in each container.

48. In carrying out an inventory, within the time available, inspectors shall have the right:

(a) To use any of the following inspection techniques:

(i) inventory all the chemical weapons stored at the facility;

(ii) inventory all the chemical weapons stored in specific buildings or locations at the facility, as chosen by the inspectors; or

(iii) inventory all the chemical weapons of one or more specific types stored at the facility, as chosen by the inspectors; and

(b) To check all items inventoried against agreed records.

49. Inspectors shall, in accordance with facility agreements:

(a) Have unimpeded access to all parts of the storage facilities including any munitions, devices, bulk containers, or other containers therein. While conducting their activity, inspectors shall comply with the safety regulations at the facility. The items to be inspected will be chosen by the inspectors; and

(b) Have the right, during the first and any subsequent inspection of each chemical weapons storage facility, to designate munitions, devices, and containers from which samples are to be taken, and to affix to such munitions, devices, and containers a unique tag that will indicate an attempt to remove or alter the tag. A sample shall be taken from a tagged item at a chemical weapons storage facility or a chemical weapons destruction facility as soon as it is practically possible in accordance with the corresponding destruction programmes, and, in any case, not later than by the end of the destruction operations.

Systematic verification of the destruction of chemical weapons

50. The purpose of verification of destruction of chemical weapons shall be:

(a) To confirm the identity and quantity of the chemical weapons stocks to be destroyed; and

(b) To confirm that these stocks have been destroyed.

51. Chemical weapons destruction operations during the first 390 days after the entry into force of this Convention shall be governed by transitional verification arrangements. Such arrangements, including a transitional facility agreement, provisions for verification through on-site inspection and monitoring with on-site instruments, and the time-frame for application of the arrangements, shall be agreed between the Organization and the inspected State Party. These arrangements shall be approved by the Executive Council not

later than 60 days after this Convention enters into force for the State Party, taking into account the recommendations of the Technical Secretariat, which shall be based on an evaluation of the detailed facility information provided in accordance with paragraph 31 and a visit to the facility. The Executive Council shall, at its first session, establish the guidelines for such transitional verification arrangements, based on recommendations to be considered and approved by the Conference pursuant to Article VIII, paragraph 21 (i). The transitional verification arrangements shall be designed to verify, throughout the entire transitional period, the destruction of chemical weapons in accordance with the purposes set forth in paragraph 50, and to avoid hampering ongoing destruction operations.

52. The provisions of paragraphs 53 to 61 shall apply to chemical weapons destruction operations that are to begin not earlier than 390 days after the entry into force of this Convention.

53. On the basis of this Convention and the detailed destruction facility information, and as the case may be, on experience from previous inspections, the Technical Secretariat shall prepare a draft plan for inspecting the destruction of chemical weapons at each destruction facility. The plan shall be completed and provided to the inspected State Party for comment not less than 270 days before the facility begins destruction operations pursuant to this Convention. Any differences between the Technical Secretariat and the inspected State Party should be resolved through consultations. Any unresolved matter shall be forwarded to the Executive Council for appropriate action with a view to facilitating the full implementation of this Convention.

54. The Technical Secretariat shall conduct an initial visit to each chemical weapons destruction facility of the inspected State Party not less than 240 days before each facility begins destruction operations pursuant to this Convention, to allow it to familiarize itself with the facility and assess the adequacy of the inspection plan.

55. In the case of an existing facility where chemical weapons destruction operations have already been initiated, the inspected State Party shall not be required to decontaminate the facility before the Technical Secretariat conducts an initial visit. The duration of the visit shall not exceed five days and the number of visiting personnel shall not exceed 15.

56. The agreed detailed plans for verification, with an appropriate recommendation by the Technical Secretariat, shall be forwarded to the Executive Council for review. The Executive Council shall review the plans with a view to approving them, consistent with verification objectives and obligations under this Convention. It should also confirm that verification schemes for destruction are consistent with verification aims and are efficient and practical. This review should be completed not less than 180 days before the destruction period begins.

57. Each member of the Executive Council may consult with the Technical Secretariat on any issues regarding the adequacy of the plan for verification. If there are no objections by any member of the Executive Council, the plan shall be put into action.

58. If there are any difficulties, the Executive Council shall enter into consultations with the State Party to reconcile them. If any difficulties remain unresolved they shall be referred to the Conference.

59. The detailed facility agreements for chemical weapons destruction facilities shall specify, taking into account the specific characteristics of the destruction facility and its mode of operation:

(a) Detailed on-site inspection procedures; and

(b) Provisions for verification through continuous monitoring with on-site instruments and physical presence of inspectors.

60. Inspectors shall be granted access to each chemical weapons destruction facility not less than 60 days before the commencement of the destruction, pursuant to this Convention, at the facility. Such access shall be for the purpose of supervising the installation of the inspection equipment, inspecting this equipment and testing its operation, as well as for the purpose of carrying out a final engineering review of the facility. In the case of an existing facility where chemical weapons destruction operations have already been initiated, destruction operations shall be stopped for the minimum amount of time required, not to exceed 60 days, for installation and testing of the inspection equipment. Depending on the results of the testing and review, the State Party and the Technical Secretariat may agree on additions or changes to the detailed facility agreement for the facility.

61. The inspected State Party shall notify, in writing, the inspection team leader at a chemical weapons destruction facility not less than four hours before the departure of each shipment of chemical weapons from a chemical weapons storage facility to that destruction facility. This notification shall specify the name of the storage facility, the estimated times of departure and arrival, the specific types and quantities of chemical weapons being transported, whether any tagged items are being moved, and the method of transportation. This notification may include notification of more than one shipment. The inspection team leader shall be promptly notified, in writing, of any changes in this information.

Chemical weapons storage facilities at chemical weapons destruction facilities

62. The inspectors shall verify the arrival of the chemical weapons at the destruction facility and the storing of these chemical weapons. The inspectors shall verify the inventory of each shipment, using agreed procedures consistent with facility safety regulations, prior to the destruction of the chemical weapons. They shall employ, as appropriate, agreed seals, markers or other inventory control procedures to facilitate an accurate inventory of the chemical weapons prior to destruction.

63. As soon and as long as chemical weapons are stored at chemical weapons storage facilities located at chemical weapons destruction facilities, these storage facilities shall be subject to systematic verification in conformity with the relevant facility agreements.

64. At the end of an active destruction phase, inspectors shall make an inventory of the chemical weapons, that have been removed from the storage facility, to be destroyed. They shall verify the accuracy of the inventory of the chemical weapons remaining, employing inventory control procedures as referred to in paragraph 62.

Systematic on-site verification measures at chemical weapons destruction facilities

65. The inspectors shall be granted access to conduct their activities at the chemical weapons destruction facilities and the chemical weapons storage facilities located at such facilities during the entire active phase of destruction.

66. At each chemical weapons destruction facility, to provide assurance that no chemical weapons are diverted and that the destruction process has been completed, inspectors shall have the right to verify through their physical presence and monitoring with on-site instruments:

(a) The receipt of chemical weapons at the facility;

(b) The temporary holding area for chemical weapons and the specific type and quantity of chemical weapons stored in that area;

(c) The specific type and quantity of chemical weapons being destroyed;

(d) The process of destruction;

(e) The end-product of destruction;

(f) The mutilation of metal parts; and

(g) The integrity of the destruction process and of the facility as a whole.

67. Inspectors shall have the right to tag, for sampling, munitions, devices, or containers located in the temporary holding areas at the chemical weapons destruction facilities.

68. To the extent that it meets inspection requirements, information from routine facility operations, with appropriate data authentication, shall be used for inspection purposes.

69. After the completion of each period of destruction, the Technical Secretariat shall confirm the declaration of the State Party, reporting the completion of destruction of the designated quantity of chemical weapons.

70. Inspectors shall, in accordance with facility agreements:

(a) Have unimpeded access to all parts of the chemical weapons destruction facilities and the chemical weapons storage facilities located at such facilities, including any munitions, devices, bulk containers, or other containers, therein. The items to be inspected shall be chosen by the inspectors in accordance with the verification plan that has been agreed to by the inspected State Party and approved by the Executive Council;

(b) Monitor the systematic on-site analysis of samples during the destruction process; and

(c) Receive, if necessary, samples taken at their request from any devices, bulk containers and other containers at the destruction facility or the storage facility thereat.

PART IV (B)

OLD CHEMICAL WEAPONS AND ABANDONED CHEMICAL WEAPONS

A. GENERAL

1. Old chemical weapons shall be destroyed as provided for in Section B.

2. Abandoned chemical weapons, including those which also meet the definition of Article II, paragraph 5 (b), shall be destroyed as provided for in Section C.

B. REGIME FOR OLD CHEMICAL WEAPONS

3. A State Party which has on its territory old chemical weapons as defined in Article II, paragraph 5 (a), shall, not later than 30 days after this Convention enters into force for it, submit to the Technical Secretariat all available relevant information, including, to the extent possible, the location, type, quantity and the present condition of these old chemical weapons.

In the case of old chemical weapons as defined in Article II, paragraph 5 (b), the State Party shall submit to the Technical Secretariat a declaration pursuant to Article III, paragraph 1 (b) (i), including, to the extent possible, the information specified in Part IV (A), paragraphs 1 to 3, of this Annex.

4. A State Party which discovers old chemical weapons after this Convention enters into force for it shall submit to the Technical Secretariat the information specified in paragraph 3 not later than 180 days after the discovery of the old chemical weapons.

5. The Technical Secretariat shall conduct an initial inspection, and any further inspections as may be necessary, in order to verify the information submitted pursuant to paragraphs 3 and 4 and in particular to determine whether the chemical weapons meet the definition of old chemical weapons as specified in Article II, paragraph 5. Guidelines to determine the usability of chemical weapons produced between 1925 and 1946 shall be considered and approved by the Conference pursuant to Article VIII, paragraph 21 (i).

6. A State Party shall treat old chemical weapons that have been confirmed by the Technical Secretariat as meeting the definition in Article II, paragraph 5 (a), as toxic waste. It shall inform the Technical Secretariat of the steps being taken to destroy or otherwise dispose of such old chemical weapons as toxic waste in accordance with its national legislation.

7. Subject to paragraphs 3 to 5, a State Party shall destroy old chemical weapons that have been confirmed by the Technical Secretariat as meeting the definition in Article II, paragraph 5 (b), in accordance with Article IV and Part IV (A) of this Annex. Upon request of a State Party, the Executive Council may, however, modify the provisions on time-limit and order of

destruction of these old chemical weapons, if it determines that doing so would not pose a risk to the object and purpose of this Convention. The request shall contain specific proposals for modification of the provisions and a detailed explanation of the reasons for the proposed modification.

C. REGIME FOR ABANDONED CHEMICAL WEAPONS

8. A State Party on whose territory there are abandoned chemical weapons (hereinafter referred to as the "Territorial State Party") shall, not later than 30 days after this Convention enters into force for it, submit to the Technical Secretariat all available relevant information concerning the abandoned chemical weapons. This information shall include, to the extent possible, the location, type, quantity and the present condition of the abandoned chemical weapons as well as information on the abandonment.

9. A State Party which discovers abandoned chemical weapons after this Convention enters into force for it shall, not later than 180 days after the discovery, submit to the Technical Secretariat all available relevant information concerning the discovered abandoned chemical weapons. This information shall include, to the extent possible, the location, type, quantity and the present condition of the abandoned chemical weapons as well as information on the abandonment.

10. A State Party which has abandoned chemical weapons on the territory of another State Party (hereinafter referred to as the "Abandoning State Party") shall, not later than 30 days after this Convention enters into force for it, submit to the Technical Secretariat all available relevant information concerning the abandoned chemical weapons. This information shall include, to the extent possible, the location, type, quantity as well as information on the abandonment, and the condition of the abandoned chemical weapons.

11. The Technical Secretariat shall conduct an initial inspection, and any further inspections as may be necessary, in order to verify all available relevant information submitted pursuant to paragraphs 8 to 10 and determine whether systematic verification in accordance with Part IV (A), paragraphs 41 to 43, of this Annex is required. It shall, if necessary, verify the origin of the abandoned chemical weapons and establish evidence concerning the abandonment and the identity of the Abandoning State.

12. The report of the Technical Secretariat shall be submitted to the Executive Council, the Territorial State Party, and to the Abandoning State Party or the State Party declared by the Territorial State Party or identified by the Technical Secretariat as having abandoned the chemical weapons. If one of the States Parties directly concerned is not satisfied with the report it shall have the right to settle the matter in accordance with provisions of this Convention or bring the issue to the Executive Council with a view to settling the matter expeditiously.

13. Pursuant to Article I, paragraph 3, the Territorial State Party shall have the right to request the State Party which has been established as the

Abandoning State Party pursuant to paragraphs 8 to 12 to enter into consultations for the purpose of destroying the abandoned chemical weapons in cooperation with the Territorial State Party. It shall immediately inform the Technical Secretariat of this request.

14. Consultations between the Territorial State Party and the Abandoning State Party with a view to establishing a mutually agreed plan for destruction shall begin not later than 30 days after the Technical Secretariat has been informed of the request referred to in paragraph 13. The mutually agreed plan for destruction shall be transmitted to the Technical Secretariat not later than 180 days after the Technical Secretariat has been informed of the request referred to in paragraph 13. Upon the request of the Abandoning State Party and the Territorial State Party, the Executive Council may extend the time limit for transmission of the mutually agreed plan for destruction.

15. For the purpose of destroying abandoned chemical weapons, the Abandoning State Party shall provide all necessary financial, technical, expert, facility as well as other resources. The Territorial State Party shall provide appropriate cooperation.

16. If the Abandoning State cannot be identified or is not a State Party, the Territorial State Party, in order to ensure the destruction of these abandoned chemical weapons, may request the Organization and other States Parties to provide assistance in the destruction of these abandoned chemical weapons.

17. Subject to paragraphs 8 to 16, Article IV and Part IV (A) of this Annex shall also apply to the destruction of abandoned chemical weapons. In the case of abandoned chemical weapons which also meet the definition of old chemical weapons in Article II, paragraph 5 (b), the Executive Council, upon the request of the Territorial State Party, individually or together with the Abandoning State Party, may modify or in exceptional cases suspend the application of provisions on destruction, if it determines that doing so would not pose a risk to the object and purpose of this Convention. In the case of abandoned chemical weapons which do not meet the definition of old chemical weapons in Article II, paragraph 5 (b), the Executive Council, upon the request of the Territorial State Party, individually or together with the Abandoning State Party, may in exceptional circumstances modify the provisions on the time-limit and the order of destruction, if it determines that doing so would not pose a risk to the object and purpose of this Convention. Any request as referred to in this paragraph shall contain specific proposals for modification of the provisions and a detailed explanation of the reasons for the proposed modification.

18. States Parties may conclude between themselves agreements or arrangements concerning the destruction of abandoned chemical weapons. The Executive Council may, upon request of the Territorial State Party, individually or together with the Abandoning State Party, decide that selected provisions of such agreements or arrangements take precedence over provisions of this Section, if it determines that the agreement or arrangement ensures the destruction of the abandoned chemical weapons in accordance with paragraph 17.

PART V

DESTRUCTION OF CHEMICAL WEAPONS PRODUCTION FACILITIES AND ITS VERIFICATION PURSUANT TO ARTICLE V

A. DECLARATIONS

Declarations of chemical weapons production facilities

1. The declaration of chemical weapons production facilities by a State Party pursuant to Article III, paragraph 1 (c) (ii), shall contain for each facility:

(a) The name of the facility, the names of the owners, and the names of the companies or enterprises operating the facility since 1 January 1946;

(b) The precise location of the facility, including the address, location of the complex, location of the facility within the complex including the specific building and structure number, if any;

(c) A statement whether it is a facility for the manufacture of chemicals that are defined as chemical weapons or whether it is a facility for the filling of chemical weapons, or both;

(d) The date when the construction of the facility was completed and the periods during which any modifications to the facility were made, including the installation of new or modified equipment, that significantly changed the production process characteristics of the facility;

(e) Information on the chemicals defined as chemical weapons that were manufactured at the facility; the munitions, devices, and containers that were filled at the facility; and the dates of the beginning and cessation of such manufacture or filling:

(i) For chemicals defined as chemical weapons that were manufactured at the facility, such information shall be expressed in terms of the specific types of chemicals manufactured, indicating the chemical name in accordance with the current International Union of Pure and Applied Chemistry (IUPAC) nomenclature, structural formula, and the Chemical Abstracts Service registry number, if assigned, and in terms of the amount of each chemical expressed by weight of chemical in tonnes;

(ii) For munitions, devices and containers that were filled at the facility, such information shall be expressed in terms of the specific type of chemical weapons filled and the weight of the chemical fill per unit.

(f) The production capacity of the chemical weapons production facility:

(i) For a facility where chemical weapons were manufactured, production capacity shall be expressed in terms of the annual quantitative potential for manufacturing a specific substance on the basis of the technological process actually used or, in the case of processes not actually used, planned to be used at the facility;

(ii) For a facility where chemical weapons were filled, production capacity shall be expressed in terms of the quantity of chemical that the facility can fill into each specific type of chemical weapon a year.

(g) For each chemical weapons production facility that has not been destroyed, a description of the facility including:

(i) A site diagram;

(ii) A process flow diagram of the facility; and

(iii) An inventory of buildings at the facility, and specialized equipment at the facility and of any spare parts for such equipment.

(h) The present status of the facility, stating:

(i) The date when chemical weapons were last produced at the facility;

(ii) Whether the facility has been destroyed, including the date and manner of its destruction; and

(iii) Whether the facility has been used or modified before entry into force of this Convention for an activity not related to the production of chemical weapons, and if so, information on what modifications have been made, the date such non-chemical weapons related activity began and the nature of such activity, indicating, if applicable, the kind of product.

(i) A specification of the measures that have been taken by the State Party for closure of, and a description of the measures that have been or will be taken by the State Party to inactivate the facility;

(j) A description of the normal pattern of activity for safety and security at the inactivated facility; and

(k) A statement as to whether the facility will be converted for the destruction of chemical weapons and, if so, the dates for such conversions.

Declarations of chemical weapons production facilities pursuant to Article III, paragraph 1 (c) (iii)

2. The declaration of chemical weapons production facilities pursuant to Article III, paragraph 1 (c) (iii), shall contain all information specified in paragraph 1 above. It is the responsibility of the State Party on whose territory the facility is or has been located to make appropriate arrangements with the other State to ensure that the declarations are made. If the State Party on whose territory the facility is or has been located is not able to fulfil this obligation, it shall state the reasons therefor.

Declarations of past transfers and receipts

3. A State Party that has transferred or received chemical weapons production equipment since 1 January 1946 shall declare these transfers and receipts pursuant to Article III, paragraph 1 (c) (iv), and in accordance with paragraph 5 below. When not all the specified information is available for transfer and receipt of such equipment for the period between 1 January 1946 and 1 January 1970, the State Party shall declare whatever information is still available to it and provide an explanation as to why it cannot submit a full declaration.

4. Chemical weapons production equipment referred to in paragraph 3 means:

(a) Specialized equipment;

(b) Equipment for the production of equipment specifically designed for use directly in connection with chemical weapons employment; and

(c) Equipment designed or used exclusively for producing non-chemical parts for chemical munitions.

5. The declaration concerning transfer and receipt of chemical weapons production equipment shall specify:

(a) Who received/transferred the chemical weapons production equipment;

(b) The identity of such equipment;

(c) The date of transfer or receipt;

(d) Whether the equipment was destroyed, if known; and

(e) Current disposition, if known.

Submission of general plans for destruction

6. For each chemical weapons production facility, a State Party shall supply the following information:

(a) Envisaged time-frame for measures to be taken; and

(b) Methods of destruction.

7. For each chemical weapons production facility that a State Party intends to convert temporarily into a chemical weapons destruction facility, the State Party shall supply the following information:

(a) Envisaged time-frame for conversion into a destruction facility;

(b) Envisaged time-frame for utilising the facility as a chemical weapons destruction facility;

(c) Description of the new facility;

(d) Method of destruction of special equipment;

(e) Time-frame for destruction of the converted facility after it has been utilized to destroy chemical weapons; and

(f) Method of destruction of the converted facility.

Submission of annual plans for destruction and annual reports on destruction

8. The State Party shall submit an annual plan for destruction not less than 90 days before the beginning of the coming destruction year. The annual plan shall specify:

(a) Capacity to be destroyed;

(b) Name and location of the facilities where destruction will take place;

(c) List of buildings and equipment that will be destroyed at each facility; and

(d) Planned method(s) of destruction.

9. A State Party shall submit an annual report on destruction not later than 90 days after the end of the previous destruction year. The annual report shall specify:

(a) Capacity destroyed;

(b) Name and location of each facility where destruction took place;

(c) List of buildings and equipment that were destroyed at each facility;

(d) Methods of destruction.

10. For a chemical weapons production facility declared pursuant to Article III, paragraph 1 (c) (iii), it is the responsibility of the State Party on whose territory the facility is or has been located to make appropriate arrangements to ensure that the declarations specified in paragraphs 6 to 9 above are made. If the State Party on whose territory the facility is or has been located is not able to fulfil this obligation, it shall state the reasons therefor.

B. DESTRUCTION

General principles for destruction of chemical weapons production facilities

11. Each State Party shall decide on methods to be applied for the destruction of chemical weapons production facilities, according to the principles laid down in Article V and in this Part.

Principles and methods for closure of a chemical weapons production facility

12. The purpose of the closure of a chemical weapons production facility is to render it inactive.

13. Agreed measures for closure shall be taken by a State Party with due regard to the specific characteristics of each facility. Such measures shall include, *inter alia*:

(a) Prohibition of occupation of the specialized buildings and standard buildings of the facility except for agreed activities;

(b) Disconnection of equipment directly related to the production of chemical weapons, including, *inter alia*, process control equipment and utilities;

(c) Decommissioning of protective installations and equipment used exclusively for the safety of operations of the chemical weapons production facility;

(d) Installation of blind flanges and other devices to prevent the addition of chemicals to, or the removal of chemicals from, any specialized process equipment for synthesis, separation or purification of chemicals defined as a chemical weapon, any storage tank, or any machine for filling chemical weapons, the heating, cooling, or supply of electrical or other forms of power to such equipment, storage tanks, or machines; and

(e) Interruption of rail, road and other access routes for heavy transport to the chemical weapons production facility except those required for agreed activities.

14. While the chemical weapons production facility remains closed, a State Party may continue safety and physical security activities at the facility.

Technical maintenance of chemical weapons production facilities prior to their destruction

15. A State Party may carry out standard maintenance activities at chemical weapons production facilities only for safety reasons, including visual inspection, preventive maintenance, and routine repairs.

16. All planned maintenance activities shall be specified in the general and detailed plans for destruction. Maintenance activities shall not include:

(a) Replacement of any process equipment;

(b) Modification of the characteristics of the chemical process equipment;

(c) Production of chemicals of any type.

17. All maintenance activities shall be subject to monitoring by the Technical Secretariat.

Principles and methods for temporary conversion of chemical weapons production facilities into chemical weapons destruction facilities

18. Measures pertaining to the temporary conversion of chemical weapons production facilities into chemical weapons destruction facilities shall ensure that the regime for the temporarily converted facilities is at least as stringent as the regime for chemical weapons production facilities that have not been converted.

19. Chemical weapons production facilities converted into chemical weapons destruction facilities before entry into force of this Convention shall be declared under the category of chemical weapons production facilities.

They shall be subject to an initial visit by inspectors, who shall confirm the correctness of the information about these facilities. Verification that the conversion of these facilities was performed in such a manner as to render them inoperable as chemical weapons production facilities shall also be required, and shall fall within the framework of measures provided for the facilities that are to be rendered inoperable not later than 90 days after entry into force of this Convention.

20. A State Party that intends to carry out a conversion of chemical weapons production facilities shall submit to the Technical Secretariat, not later than 30 days after this Convention enters into force for it, or not later than 30 days after a decision has been taken for temporary conversion, a general facility conversion plan, and subsequently shall submit annual plans.

21. Should a State Party have the need to convert to a chemical weapons destruction facility an additional chemical weapons production facility that had been closed after this Convention entered into force for it, it shall inform the Technical Secretariat thereof not less than 150 days before conversion. The Technical Secretariat, in conjunction with the State Party, shall make sure that the necessary measures are taken to render that facility, after its conversion, inoperable as a chemical weapons production facility.

22. A facility converted for the destruction of chemical weapons shall not be more fit for resuming chemical weapons production than a chemical weapons production facility which has been closed and is under maintenance. Its reactivation shall require no less time than that required for a chemical weapons production facility that has been closed and is under maintenance.

23. Converted chemical weapons production facilities shall be destroyed not later than 10 years after entry into force of this Convention.

24. Any measures for the conversion of any given chemical weapons production facility shall be facility-specific and shall depend upon its individual characteristics.

25. The set of measures carried out for the purpose of converting a chemical weapons production facility into a chemical weapons destruction facility shall not be less than that which is provided for the disabling of other chemical weapons production facilities to be carried out not later than 90 days after this Convention enters into force for the State Party.

Principles and methods related to destruction of a chemical weapons production facility

26. A State Party shall destroy equipment and buildings covered by the definition of a chemical weapons production facility as follows:

(a) All specialized equipment and standard equipment shall be physically destroyed;

(b) All specialized buildings and standard buildings shall be physically destroyed.

27. A State Party shall destroy facilities for producing unfilled chemical munitions and equipment for chemical weapons employment as follows:

(a) Facilities used exclusively for production of non-chemical parts for chemical munitions or equipment specifically designed for use directly in connection with chemical weapons employment, shall be declared and destroyed. The destruction process and its verification shall be conducted according to the provisions of Article V and this Part of this Annex that govern destruction of chemical weapons production facilities;

(b) All equipment designed or used exclusively for producing non-chemical parts for chemical munitions shall be physically destroyed. Such equipment, which includes specially designed moulds and metal-forming dies, may be brought to a special location for destruction;

(c) All buildings and standard equipment used for such production activities shall be destroyed or converted for purposes not prohibited under this Convention, with confirmation, as necessary, through consultations and inspections as provided for under Article IX;

(d) Activities for purposes not prohibited under this Convention may continue while destruction or conversion proceeds.

Order of destruction

28. The order of destruction of chemical weapons production facilities is based on the obligations specified in Article I and the other Articles of this Convention, including obligations regarding systematic on-site verification. It takes into account interests of States Parties for undiminished security during the destruction period; confidence-building in the early part of the destruction stage; gradual acquisition of experience in the course of destroying chemical weapons production facilities; and applicability irrespective of the actual characteristics of the facilities and the methods chosen for their destruction. The order of destruction is based on the principle of levelling out.

29. A State Party shall, for each destruction period, determine which chemical weapons production facilities are to be destroyed and carry out the destruction in such a way that not more than what is specified in paragraph 30 and 31 remains at the end of each destruction period. A State Party is not precluded from destroying its facilities at a faster pace.

30. The following provisions shall apply to chemical weapons production facilities that produce Schedule 1 chemicals:

(a) A State Party shall start the destruction of such facilities not later than one year after this Convention enters into force for it, and shall complete it not later than 10 years after entry into force of this Convention. For a State which is a Party at the entry into force of this Convention, this overall period shall be divided into three separate destruction periods, namely, years 2-5, years 6-8, and years 9-10. For States which become a Party after entry into force of this Convention, the destruction periods shall be adapted, taking into account paragraphs 28 and 29;

(b) Production capacity shall be used as the comparison factor for such facilities. It shall be expressed in agent tonnes, taking into account the rules specified for binary chemical weapons;

(c) Appropriate agreed levels of production capacity shall be established for the end of the eighth year after entry into force of this Convention. Production capacity that exceeds the relevant level shall be destroyed in equal increments during the first two destruction periods;

(d) A requirement to destroy a given amount of capacity shall entail a requirement to destroy any other chemical weapons production facility that supplied the Schedule 1 facility or filled the Schedule 1 chemical produced there into munitions or devices;

(e) Chemical weapons production facilities that have been converted temporarily for destruction of chemical weapons shall continue to be subject to the obligation to destroy capacity according to the provisions of this paragraph.

31. A State Party shall start the destruction of chemical weapons production facilities not covered in paragraph 30 not later than one year after this Convention enters into force for it, and complete it not later than five years after entry into force of this Convention.

Detailed plans for destruction

32. Not less than 180 days before the destruction of a chemical weapons production facility starts, a State Party shall provide to the Technical Secretariat the detailed plans for destruction of the facility, including proposed measures for verification of destruction referred to in paragraph 33 (f), with respect to, inter alia:

(a) Timing of the presence of the inspectors at the facility to be destroyed; and

(b) Procedures for verification of measures to be applied to each item on the declared inventory.

33. The detailed plans for destruction of each chemical weapons production facility shall contain:

(a) Detailed time schedule of the destruction process;

(b) Layout of the facility;

(c) Process flow diagram;

(d) Detailed inventory of equipment, buildings and other items to be destroyed;

(e) Measures to be applied to each item on the inventory;

(f) Proposed measures for verification;

(g) Security/safety measures to be observed during the destruction of the facility; and

(h) Working and living conditions to be provided for inspectors.

34. If a State Party intends to convert temporarily a chemical weapons production facility into a chemical weapons destruction facility, it shall notify the Technical Secretariat not less than 150 days before undertaking any conversion activities. The notification shall:

(a) Specify the name, address, and location of the facility;

(b) Provide a site diagram indicating all structures and areas that will be involved in the destruction of chemical weapons and also identify all structures of the chemical weapons production facility that are to be temporarily converted;

(c) Specify the types of chemical weapons, and the type and quantity of chemical fill to be destroyed;

(d) Specify the destruction method;

(e) Provide a process flow diagram, indicating which portions of the production process and specialized equipment will be converted for the destruction of chemical weapons;

(f) Specify the seals and inspection equipment potentially affected by the conversion, if applicable; and

(g) Provide a schedule identifying: The time allocated to design, temporary conversion of the facility, installation of equipment, equipment check-out, destruction operations, and closure.

35. In relation to the destruction of a facility that was temporarily converted for destruction of chemical weapons, information shall be provided in accordance with paragraphs 32 and 33.

Review of detailed plans

36. On the basis of the detailed plan for destruction and proposed measures for verification submitted by the State Party, and on experience from previous inspections, the Technical Secretariat shall prepare a plan for verifying the destruction of the facility, consulting closely with the State Party. Any differences between the Technical Secretariat and the State Party concerning

appropriate measures should be resolved through consultations. Any unresolved matters shall be forwarded to the Executive Council for appropriate action with a view to facilitating the full implementation of this Convention.

37. To ensure that the provisions of Article V and this Part are fulfilled, the combined plans for destruction and verification shall be agreed upon between the Executive Council and the State Party. This agreement should be completed, not less than 60 days before the planned initiation of destruction.

38. Each member of the Executive Council may consult with the Technical Secretariat on any issues regarding the adequacy of the combined plan for destruction and verification. If there are no objections by any member of the Executive Council, the plan shall be put into action.

39. If there are any difficulties, the Executive Council shall enter into consultations with the State Party to reconcile them. If any difficulties remain unresolved they shall be referred to the Conference. The resolution of any differences over methods of destruction shall not delay the execution of other parts of the destruction plan that are acceptable.

40. If agreement is not reached with the Executive Council on aspects of verification, or if the approved verification plan cannot be put into action, verification of destruction shall proceed through continuous monitoring with on-site instruments and physical presence of inspectors.

41. Destruction and verification shall proceed according to the agreed plan. The verification shall not unduly interfere with the destruction process and shall be conducted through the presence of inspectors on-site to witness the destruction.

42. If required verification or destruction actions are not taken as planned, all States Parties shall be so informed.

C. VERIFICATION

Verification of declarations of chemical weapons production facilities through on-site inspection

43. The Technical Secretariat shall conduct an initial inspection of each chemical weapons production facility in the period between 90 and 120 days after this Convention enters into force for the State Party.

44. The purposes of the initial inspection shall be:

(a) To confirm that the production of chemical weapons has ceased and that the facility has been inactivated in accordance with this Convention;

(b) To permit the Technical Secretariat to familiarize itself with the measures that have been taken to cease production of chemical weapons at the facility;

(c) To permit the inspectors to install temporary seals;

(d) To permit the inspectors to confirm the inventory of buildings and specialized equipment;

(e) To obtain information necessary for planning inspection activities at the facility, including use of tamper-indicating seals and other agreed equipment, which shall be installed pursuant to the detailed facility agreement for the facility; and

(f) To conduct preliminary discussions regarding a detailed agreement on inspection procedures at the facility.

45. Inspectors shall employ, as appropriate, agreed seals, markers or other inventory control procedures to facilitate an accurate inventory of the declared items at each chemical weapons production facility.

46. Inspectors shall install such agreed devices as may be necessary to indicate if any resumption of production of chemical weapons occurs or if any declared item is removed. They shall take the necessary precaution not to hinder closure activities by the inspected State Party. Inspectors may return to maintain and verify the integrity of the devices.

47. If, on the basis of the initial inspection, the Director-General believes that additional measures are necessary to inactivate the facility in accordance with this Convention, the Director-General may request, not later than 135 days after this Convention enters into force for a State Party, that such measures be implemented by the inspected State Party not later than 180 days after this Convention enters into force for it. At its discretion, the inspected State Party may satisfy the request. If it does not satisfy the request, the inspected State Party and the Director-General shall consult to resolve the matter.

Systematic verification of chemical weapons production facilities and cessation of their activities

48. The purpose of the systematic verification of a chemical weapons production facility shall be to ensure that any resumption of production of chemical weapons or removal of declared items will be detected at this facility.

49. The detailed facility agreement for each chemical weapons production facility shall specify:

(a) Detailed on-site inspection procedures, which may include:

(i) Visual examinations;

(ii) Checking and servicing of seals and other agreed devices; and

(iii) Obtaining and analysing samples.

(b) Procedures for using tamper-indicating seals and other agreed equipment to prevent the undetected reactivation of the facility, which shall specify:

(i) The type, placement, and arrangements for installation; and

(ii) The maintenance of such seals and equipment; and

(c) Other agreed measures.

50. The seals or other approved equipment provided for in a detailed agreement on inspection measures for that facility shall be placed not later than 240 days after this Convention enters into force for a State Party. Inspectors shall be permitted to visit each chemical weapons production facility for the installation of such seals or equipment.

51. During each calendar year, the Technical Secretariat shall be permitted to conduct up to four inspections of each chemical weapons production facility.

52. The Director-General shall notify the inspected State Party of his decision to inspect or visit a chemical weapons production facility 48 hours before the planned arrival of the inspection team at the facility for systematic inspections or visits. In the case of inspections or visits to resolve urgent problems, this period may be shortened. The Director-General shall specify the purpose of the inspection or visit.

53. Inspectors shall, in accordance with the facility agreements, have unimpeded access to all parts of the chemical weapons production facilities. The items on the declared inventory to be inspected shall be chosen by the inspectors.

54. The guidelines for determining the frequency of systematic on-site inspections shall be considered and approved by the Conference pursuant to Article VIII, paragraph 21 (i). The particular production facility to be inspected shall be chosen by the Technical Secretariat in such a way as to preclude the prediction of precisely when the facility is to be inspected.

Verification of destruction of chemical weapons production facilities

55. The purpose of systematic verification of the destruction of chemical weapons production facilities shall be to confirm that the facility is destroyed in accordance with the obligations under this Convention and that each item on the declared inventory is destroyed in accordance with the agreed detailed plan for destruction.

56. When all items on the declared inventory have been destroyed, the Technical Secretariat shall confirm the declaration of the State Party to that effect. After this confirmation, the Technical Secretariat shall terminate

the systematic verification of the chemical weapons production facility and shall promptly remove all devices and monitoring instruments installed by the inspectors.

57. After this confirmation, the State Party shall make the declaration that the facility has been destroyed.

Verification of temporary conversion of a chemical weapons production facility into a chemical weapons destruction facility

58. Not later than 90 days after receiving the initial notification of the intent to convert temporarily a production facility, the inspectors shall have the right to visit the facility to familiarize themselves with the proposed temporary conversion and to study possible inspection measures that will be required during the conversion.

59. Not later than 60 days after such a visit, the Technical Secretariat and the inspected State Party shall conclude a transition agreement containing additional inspection measures for the temporary conversion period. The transition agreement shall specify inspection procedures, including the use of seals, monitoring equipment, and inspections, that will provide confidence that no chemical weapons production takes place during the conversion process. This agreement shall remain in force from the beginning of the temporary conversion activity until the facility begins operation as a chemical weapons destruction facility.

60. The inspected State Party shall not remove or convert any portion of the facility, or remove or modify any seal or other agreed inspection equipment that may have been installed pursuant to this Convention until the transition agreement has been concluded.

61. Once the facility begins operation as a chemical weapons destruction facility, it shall be subject to the provisions of Part IV (A) of this Annex applicable to chemical weapons destruction facilities. Arrangements for the pre-operation period shall be governed by the transition agreement.

62. During destruction operations the inspectors shall have access to all portions of the temporarily converted chemical weapons production facilities, including those that are not directly involved with the destruction of chemical weapons.

63. Before the commencement of work at the facility to convert it temporarily for chemical weapons destruction purposes and after the facility has ceased to function as a facility for chemical weapons destruction, the facility shall be subject to the provisions of this Part applicable to chemical weapons production facilities.

D. CONVERSION OF CHEMICAL WEAPONS PRODUCTION FACILITIES TO PURPOSES NOT PROHIBITED UNDER THIS CONVENTION

Procedures for requesting conversion

64. A request to use a chemical weapons production facility for purposes not prohibited under this Convention may be made for any facility that a State Party is already using for such purposes before this Convention enters into force for it, or that it plans to use for such purposes.

65. For a chemical weapons production facility that is being used for purposes not prohibited under this Convention when this Convention enters into force for the State Party, the request shall be submitted to the Director-General not later than 30 days after this Convention enters into force for the State Party. The request shall contain, in addition to data submitted in accordance with paragraph 1 (h) (iii), the following information:

(a) A detailed justification for the request;

(b) A general facility conversion plan that specifies:

(i) The nature of the activity to be conducted at the facility;

(ii) If the planned activity involves production, processing, or consumption of chemicals: the name of each of the chemicals, the flow diagram of the facility, and the quantities planned to be produced, processed, or consumed annually;

(iii) Which buildings or structures are proposed to be used and what modifications are proposed, if any;

(iv) Which buildings or structures have been destroyed or are proposed to be destroyed and the plans for destruction;

(v) What equipment is to be used in the facility;

(vi) What equipment has been removed and destroyed and what equipment is proposed to be removed and destroyed and the plans for its destruction;

(vii) The proposed schedule for conversion, if applicable; and

(viii) The nature of the activity of each other facility operating at the site; and

(c) A detailed explanation of how measures set forth in subparagraph (b), as well as any other measures proposed by the State Party, will ensure the prevention of standby chemical weapons production capability at the facility.

66. For a chemical weapons production facility that is not being used for purposes not prohibited under this Convention when this Convention enters into force for the State Party, the request shall be submitted to the Director-General not later than 30 days after the decision to convert, but in no case later than four years after this Convention enters into force for the State Party. The request shall contain the following information:

(a) A detailed justification for the request, including its economic needs;

(b) A general facility conversion plan that specifies:

(i) The nature of the activity planned to be conducted at the facility;

(ii) If the planned activity involves production, processing, or consumption of chemicals: the name of each of the chemicals, the flow diagram of the facility, and the quantities planned to be produced, processed, or consumed annually;

(iii) Which buildings or structures are proposed to be retained and what modifications are proposed, if any;

(iv) Which buildings or structures have been destroyed or are proposed to be destroyed and the plans for destruction;

(v) What equipment is proposed for use in the facility;

(vi) What equipment is proposed to be removed and destroyed and the plans for its destruction;

(vii) The proposed schedule for conversion; and

(viii) The nature of the activity of each other facility operating at the site; and

(c) A detailed explanation of how the measures set forth in subparagraph (b), as well as any other measures proposed by the State Party, will ensure the prevention of standby chemical weapons production capability at the facility.

67. The State Party may propose in its request any other measures it deems appropriate to build confidence.

Actions pending a decision

68. Pending a decision of the Conference, a State Party may continue to use for purposes not prohibited under this Convention a facility that was being used for such purposes before this Convention enters into force for it, but

only if the State Party certifies in its request that no specialized equipment and no specialized buildings are being used and that the specialized equipment and specialized buildings have been rendered inactive using the methods specified in paragraph 13.

69. If the facility, for which the request was made, was not being used for purposes not prohibited under this Convention before this Convention enters into force for the State Party, or if the certification required in paragraph 68 is not made, the State Party shall cease immediately all activity pursuant to Article V, paragraph 4. The State Party shall close the facility in accordance with paragraph 13 not later than 90 days after this Convention enters into force for it.

Conditions for conversion

70. As a condition for conversion of a chemical weapons production facility for purposes not prohibited under this Convention, all specialized equipment at the facility must be destroyed and all special features of buildings and structures that distinguish them from buildings and structures normally used for purposes not prohibited under this Convention and not involving Schedule 1 chemicals must be eliminated.

71. A converted facility shall not be used:

(a) For any activity involving production, processing, or consumption of a Schedule 1 chemical or a Schedule 2 chemical; or

(b) For the production of any highly toxic chemical, including any highly toxic organophosphorus chemical, or for any other activity that would require special equipment for handling highly toxic or highly corrosive chemicals, unless the Executive Council decides that such production or activity would pose no risk to the object and purpose of this Convention, taking into account criteria for toxicity, corrosiveness and, if applicable, other technical factors, to be considered and approved by the Conference pursuant to Article VIII, paragraph 21 (i).

72. Conversion of a chemical weapons production facility shall be completed not later than six years after entry into force of this Convention.

Decisions by the Executive Council and the Conference

73. Not later than 90 days after receipt of the request by the Director-General, an initial inspection of the facility shall be conducted by the Technical Secretariat. The purpose of this inspection shall be to determine the accuracy of the information provided in the request, to obtain information on the technical characteristics of the proposed converted facility, and to assess the conditions under which use for purposes not prohibited under this Convention may be permitted. The Director-General shall promptly submit a report to the Executive Council, the Conference, and all

States Parties containing his recommendations on the measures necessary to convert the facility to purposes not prohibited under this Convention and to provide assurance that the converted facility will be used only for purposes not prohibited under this Convention.

74. If the facility has been used for purposes not prohibited under this Convention before this Convention enters into force for the State Party, and is continuing to be in operation, but the measures required to be certified under paragraph 68 have not been taken, the Director-General shall immediately inform the Executive Council, which may require implementation of measures it deems appropriate, inter alia, shut-down of the facility and removal of specialized equipment and modification of buildings or structures. The Executive Council shall stipulate the deadline for implementation of these measures and shall suspend consideration of the request pending their satisfactory completion. The facility shall be inspected promptly after the expiration of the deadline to determine whether the measures have been implemented. If not, the State Party shall be required to shut down completely all facility operations.

75. As soon as possible after receiving the report of the Director-General, the Conference, upon recommendation of the Executive Council, shall decide, taking into account the report and any views expressed by States Parties, whether to approve the request, and shall establish the conditions upon which approval is contingent. If any State Party objects to approval of the request and the associated conditions, consultations shall be undertaken among interested States Parties for up to 90 days to seek a mutually acceptable solution. A decision on the request and associated conditions, along with any proposed modifications thereto, shall be taken, as a matter of substance, as soon as possible after the end of the consultation period.

76. If the request is approved, a facility agreement shall be completed not later than 90 days after such a decision is taken. The facility agreement shall contain the conditions under which the conversion and use of the facility is permitted, including measures for verification. Conversion shall not begin before the facility agreement is concluded.

Detailed plans for conversion

77. Not less than 180 days before conversion of a chemical weapons production facility is planned to begin, the State Party shall provide the Technical Secretariat with the detailed plans for conversion of the facility, including proposed measures for verification of conversion, with respect to, inter alia:

(a) Timing of the presence of the inspectors at the facility to be converted; and

(b) Procedures for verification of measures to be applied to each item on the declared inventory.

78. The detailed plan for conversion of each chemical weapons production facility shall contain:

(a) Detailed time schedule of the conversion process;

(b) Layout of the facility before and after conversion;

(c) Process flow diagram of the facility before, and as appropriate, after the conversion;

(d) Detailed inventory of equipment, buildings and structures and other items to be destroyed and of the buildings and structures to be modified;

(e) Measures to be applied to each item on the inventory, if any;

(f) Proposed measures for verification;

(g) Security/safety measures to be observed during the conversion of the facility; and

(h) Working and living conditions to be provided for inspectors.

Review of detailed plans

79. On the basis of the detailed plan for conversion and proposed measures for verification submitted by the State Party, and on experience from previous inspections, the Technical Secretariat shall prepare a plan for verifying the conversion of the facility, consulting closely with the State Party. Any differences between the Technical Secretariat and the State Party concerning appropriate measures shall be resolved through consultations. Any unresolved matters shall be forwarded to the Executive Council for appropriate action with a view to facilitate the full implementation of this Convention.

80. To ensure that the provisions of Article V and this Part are fulfilled, the combined plans for conversion and verification shall be agreed upon between the Executive Council and the State Party. This agreement shall be completed not less than 60 days before conversion is planned to begin.

81. Each member of the Executive Council may consult with the Technical Secretariat on any issue regarding the adequacy of the combined plan for conversion and verification. If there are no objections by any member of the Executive Council, the plan shall be put into action.

82. If there are any difficulties, the Executive Council should enter into consultations with the State Party to reconcile them. If any difficulties remain unresolved, they should be referred to the Conference. The resolution of any differences over methods of conversion should not delay the execution of other parts of the conversion plan that are acceptable.

83. If agreement is not reached with the Executive Council on aspects of verification, or if the approved verification plan cannot be put into action, verification of conversion shall proceed through continuous monitoring with on-site instruments and physical presence of inspectors.

84. Conversion and verification shall proceed according to the agreed plan. The verification shall not unduly interfere with the conversion process and shall be conducted through the presence of inspectors to confirm the conversion.

85. For the 10 years after the Director-General certifies that conversion is complete, the State Party shall provide to inspectors unimpeded access to the facility at any time. The inspectors shall have the right to observe all areas, all activities, and all items of equipment at the facility. The inspectors shall have the right to verify that the activities at the facility are consistent with any conditions established under this Section, by the Executive Council and the Conference. The inspectors shall also have the right, in accordance with provisions of Part II, Section E, of this Annex to receive samples from any area of the facility and to analyse them to verify the absence of Schedule 1 chemicals, their stable by-products and decomposition products and of Schedule 2 chemicals and to verify that the activities at the facility are consistent with any other conditions on chemical activities established under this Section, by the Executive Council and the Conference. The inspectors shall also have the right to managed access, in accordance with Part X, Section C, of this Annex, to the plant site at which the facility is located. During the 10-year period, the State Party shall report annually on the activities at the converted facility. Upon completion of the 10-year period, the Executive Council, taking into account recommendations of the Technical Secretariat, shall decide on the nature of continued verification measures.

86. Costs of verification of the converted facility shall be allocated in accordance with Article V, paragraph 19.

PART VI

ACTIVITIES NOT PROHIBITED UNDER THIS CONVENTION IN ACCORDANCE WITH ARTICLE VI

REGIME FOR SCHEDULE 1 CHEMICALS AND FACILITIES RELATED TO SUCH CHEMICALS

A. GENERAL PROVISIONS

1. A State Party shall not produce, acquire, retain or use Schedule 1 chemicals outside the territories of States Parties and shall not transfer such chemicals outside its territory except to another State Party.

2. A State Party shall not produce, acquire, retain, transfer or use Schedule 1 chemicals unless:

(a) The chemicals are applied to research, medical, pharmaceutical or protective purposes; and

(b) The types and quantities of chemicals are strictly limited to those which can be justified for such purposes; and

(c) The aggregate amount of such chemicals at any given time for such purposes is equal to or less than 1 tonne; and

(d) The aggregate amount for such purposes acquired by a State Party in any year through production, withdrawal from chemical weapons stocks and transfer is equal to or less than 1 tonne.

B. TRANSFERS

3. A State Party may transfer Schedule 1 chemicals outside its territory only to another State Party and only for research, medical, pharmaceutical or protective purposes in accordance with paragraph 2.

4. Chemicals transferred shall not be retransferred to a third State.

5. Not less than 30 days before any transfer to another State Party both States Parties shall notify the Technical Secretariat of the transfer.

6. Each State Party shall make a detailed annual declaration regarding transfers during the previous year. The declaration shall be submitted not later than 90 days after the end of that year and shall for each Schedule 1 chemical that has been transferred include the following information:

(a) The chemical name, structural formula and Chemical Abstracts Service registry number, if assigned;

(b) The quantity acquired from other States or transferred to other States Parties. For each transfer the quantity, recipient and purpose shall be included.

C. PRODUCTION

General principles for production

7. Each State Party, during production under paragraphs 8 to 12, shall assign the highest priority to ensuring the safety of people and to protecting the environment. Each State Party shall conduct such production in accordance with its national standards for safety and emissions.

Single small-scale facility

8. Each State Party that produces Schedule 1 chemicals for research, medical, pharmaceutical or protective purposes shall carry out the production at a single small-scale facility approved by the State Party, except as set forth in paragraphs 10, 11 and 12.

9. The production at a single small-scale facility shall be carried out in reaction vessels in production lines not configurated for continuous operation. The volume of such a reaction vessel shall not exceed 100 litres, and the total volume of all reaction vessels with a volume exceeding 5 litres shall not be more than 500 litres.

Other facilities

10. Production of Schedule 1 chemicals in aggregate quantities not exceeding 10 kg per year may be carried out for protective purposes at one facility outside a single small-scale facility. This facility shall be approved by the State Party.

11. Production of Schedule 1 chemicals in quantities of more than 100 g per year may be carried out for research, medical or pharmaceutical purposes outside a single small-scale facility in aggregate quantities not exceeding 10 kg per year per facility. These facilities shall be approved by the State Party.

12. Synthesis of Schedule 1 chemicals for research, medical or pharmaceutical purposes, but not for protective purposes, may be carried out at laboratories in aggregate quantities less than 100 g per year per facility. These facilities shall not be subject to any obligation relating to declaration and verification as specified in Sections D and E.

D. DECLARATIONS

Single small-scale facility

13. Each State Party that plans to operate a single small-scale facility shall provide the Technical Secretariat with the precise location and a detailed technical description of the facility, including an inventory of equipment and detailed diagrams. For existing facilities, this initial declaration shall be provided not later than 30 days after this Convention enters into force for the State Party. Initial declarations on new facilities shall be provided not less than 180 days before operations are to begin.

14. Each State Party shall give advance notification to the Technical Secretariat of planned changes related to the initial declaration. The notification shall be submitted not less than 180 days before the changes are to take place.

15. A State Party producing Schedule 1 chemicals at a single small-scale facility shall make a detailed annual declaration regarding the activities of the facility for the previous year. The declaration shall be submitted not later than 90 days after the end of that year and shall include:

(a) Identification of the facility;

(b) For each Schedule 1 chemical produced, acquired, consumed or stored at the facility, the following information:

(i) The chemical name, structural formula and Chemical Abstracts Service registry number, if assigned;

(ii) The methods employed and quantity produced;

(iii) The name and quantity of precursors listed in Schedules 1, 2, or 3 used for production of Schedule 1 chemicals;

(iv) The quantity consumed at the facility and the purpose(s) of the consumption;

(v) The quantity received from or shipped to other facilities in the State Party. For each shipment the quantity, recipient and purpose should be included;

(vi) The maximum quantity stored at any time during the year; and

(vii) The quantity stored at the end of the year; and

(c) Information on any changes at the facility during the year compared to previously submitted detailed technical descriptions of the facility including inventories of equipment and detailed diagrams.

16. Each State Party producing Schedule 1 chemicals at a single small-scale facility shall make a detailed annual declaration regarding the projected activities and the anticipated production at the facility for the coming year. The declaration shall be submitted not less than 90 days before the beginning of that year and shall include:

(a) Identification of the facility;

(b) For each Schedule 1 chemical anticipated to be produced, consumed or stored at the facility, the following information:

(i) The chemical name, structural formula and Chemical Abstracts Service registry number, if assigned;

(ii) The quantity anticipated to be produced and the purpose of the production; and

(c) Information on any anticipated changes at the facility during the year compared to previously submitted detailed technical descriptions of the facility including inventories of equipment and detailed diagrams.

Other facilities referred to in paragraphs 10 and 11

17. For each facility, a State Party shall provide the Technical Secretariat with the name, location and a detailed technical description of the facility or its relevant part(s) as requested by the Technical Secretariat. The facility producing Schedule 1 chemicals for protective purposes shall be specifically identified. For existing facilities, this initial declaration shall be provided not later than 30 days after this Convention enters into force for the State Party. Initial declarations on new facilities shall be provided not less than 180 days before operations are to begin.

18. Each State Party shall give advance notification to the Technical Secretariat of planned changes related to the initial declaration. The notification shall be submitted not less than 180 days before the changes are to take place.

19. Each State Party shall, for each facility, make a detailed annual declaration regarding the activities of the facility for the previous year. The declaration shall be submitted not later than 90 days after the end of that year and shall include:

(a) Identification of the facility;

(b) For each Schedule 1 chemical the following information:

(i) The chemical name, structural formula and Chemical Abstracts Service registry number, if assigned;

(ii) The quantity produced and, in case of production for protective purposes, methods employed;

(iii) The name and quantity of precursors listed in Schedules 1, 2, or 3, used for production of Schedule 1 chemicals;

(iv) The quantity consumed at the facility and the purpose of the consumption;

(v) The quantity transferred to other facilities within the State Party. For each transfer the quantity, recipient and purpose should be included;

(vi) The maximum quantity stored at any time during the year; and

(vii) The quantity stored at the end of the year; and

(c) Information on any changes at the facility or its relevant parts during the year compared to previously submitted detailed technical description of the facility.

20. Each State Party shall, for each facility, make a detailed annual declaration regarding the projected activities and the anticipated production at the facility for the coming year. The declaration shall be submitted not less than 90 days before the beginning of that year and shall include:

(a) Identification of the facility;

(b) For each Schedule 1 chemical the following information:

(i) The chemical name, structural formula and Chemical Abstracts Service registry number, if assigned; and

(ii) The quantity anticipated to be produced, the time periods when the production is anticipated to take place and the purposes of the production; and

(c) Information on any anticipated changes at the facility or its relevant parts, during the year compared to previously submitted detailed technical descriptions of the facility.

E. VERIFICATION

Single small-scale facility

21. The aim of verification activities at the single small-scale facility shall be to verify that the quantities of Schedule 1 chemicals produced are correctly declared and, in particular, that their aggregate amount does not exceed 1 tonne.

22. The facility shall be subject to systematic verification through on-site inspection and monitoring with on-site instruments.

23. The number, intensity, duration, timing and mode of inspections for a particular facility shall be based on the risk to the object and purpose of this Convention posed by the relevant chemicals, the characteristics of the facility and the nature of the activities carried out there. Appropriate guidelines shall be considered and approved by the Conference pursuant to Article VIII, paragraph 21 (i).

24. The purpose of the initial inspection shall be to verify information provided concerning the facility, including verification of the limits on reaction vessels set forth in paragraph 9.

25. Not later than 180 days after this Convention enters into force for a State Party, it shall conclude a facility agreement, based on a model agreement, with the Organization, covering detailed inspection procedures for the facility.

26. Each State Party planning to establish a single small-scale facility after this Convention enters into force for it shall conclude a facility agreement, based on a model agreement, with the Organization, covering detailed inspection procedures for the facility before it begins operation or is used.

27. A model for agreements shall be considered and approved by the Conference pursuant to Article VIII, paragraph 21 (i).

Other facilities referred to in paragraphs 10 and 11

28. The aim of verification activities at any facility referred to in paragraphs 10 and 11 shall be to verify that:

(a) The facility is not used to produce any Schedule 1 chemical, except for the declared chemicals;

(b) The quantities of Schedule 1 chemicals produced, processed or consumed are correctly declared and consistent with needs for the declared purpose; and

(c) The Schedule 1 chemical is not diverted or used for other purposes.

29. The facility shall be subject to systematic verification through on-site inspection and monitoring with on-site instruments.

30. The number, intensity, duration, timing and mode of inspections for a particular facility shall be based on the risk to the object and purpose of this Convention posed by the quantities of chemicals produced, the

characteristics of the facility and the nature of the activities carried out there. Appropriate guidelines shall be considered and approved by the Conference pursuant to Article VIII, paragraph 21 (i).

31. Not later than 180 days after this Convention enters into force for a State Party, it shall conclude facility agreements with the Organization, based on a model agreement covering detailed inspection procedures for each facility.

32. Each State Party planning to establish such a facility after entry into force of this Convention shall conclude a facility agreement with the Organization before the facility begins operation or is used.

PART VII

ACTIVITIES NOT PROHIBITED UNDER THIS CONVENTION IN ACCORDANCE WITH ARTICLE VI

REGIME FOR SCHEDULE 2 CHEMICALS AND FACILITIES RELATED TO SUCH CHEMICALS

A. DECLARATIONS

Declarations of aggregate national data

1. The initial and annual declarations to be provided by each State Party pursuant to Article VI, paragraphs 7 and 8, shall include aggregate national data for the previous calendar year on the quantities produced, processed, consumed, imported and exported of each Schedule 2 chemical, as well as a quantitative specification of import and export for each country involved.

2. Each State Party shall submit:

(a) Initial declarations pursuant to paragraph 1 not later than 30 days after this Convention enters into force for it; and, starting in the following calendar year,

(b) Annual declarations not later than 90 days after the end of the previous calendar year.

Declarations of plant sites producing, processing or consuming Schedule 2 chemicals

3. Initial and annual declarations are required for all plant sites that comprise one or more plant(s) which produced, processed or consumed during any of the previous three calendar years or is anticipated to produce, process or consume in the next calendar year more than:

(a) 1 kg of a chemical designated "*" in Schedule 2, part A;

(b) 100 kg of any other chemical listed in Schedule 2, part A; or

(c) 1 tonne of a chemical listed in Schedule 2, part B.

4. Each State Party shall submit:

(a) Initial declarations pursuant to paragraph 3 not later than 30 days after this Convention enters into force for it; and, starting in the following calendar year;

(b) Annual declarations on past activities not later than 90 days after the end of the previous calendar year;

(c) Annual declarations on anticipated activities not later than 60 days before the beginning of the following calendar year. Any such activity additionally planned after the annual declaration has been submitted shall be declared not later than five days before this activity begins.

5. Declarations pursuant to paragraph 3 are generally not required for mixtures containing a low concentration of a Schedule 2 chemical. They are only required, in accordance with guidelines, in cases where the ease of recovery from the mixture of the Schedule 2 chemical and its total weight are deemed to pose a risk to the object and purpose of this Convention. These guidelines shall be considered and approved by the Conference pursuant to Article VIII, paragraph 21 (i).

6. Declarations of a plant site pursuant to paragraph 3 shall include:

(a) The name of the plant site and the name of the owner, company, or enterprise operating it;

(b) Its precise location including the address; and

(c) The number of plants within the plant site which are declared pursuant to Part VIII of this Annex.

7. Declarations of a plant site pursuant to paragraph 3 shall also include, for each plant which is located within the plant site and which falls under the specifications set forth in paragraph 3, the following information:

(a) The name of the plant and the name of the owner, company, or enterprise operating it;

(b) Its precise location within the plant site including the specific building or structure number, if any;

(c) Its main activities;

(d) Whether the plant:

(i) Produces, processes, or consumes the declared Schedule 2 chemical(s);

(ii) Is dedicated to such activities or multi-purpose; and

(iii) Performs other activities with regard to the declared Schedule 2 chemical(s), including a specification of that other activity (e.g. storage); and

(e) The production capacity of the plant for each declared Schedule 2 chemical.

8. Declarations of a plant site pursuant to paragraph 3 shall also include the following information on each Schedule 2 chemical above the declaration threshold:

(a) The chemical name, common or trade name used by the facility, structural formula, and Chemical Abstracts Service registry number, if assigned;

(b) In the case of the initial declaration: the total amount produced, processed, consumed, imported and exported by the plant site in each of the three previous calendar years;

(c) In the case of the annual declaration on past activities: the total amount produced, processed, consumed, imported and exported by the plant site in the previous calendar year;

(d) In the case of the annual declaration on anticipated activities: the total amount anticipated to be produced, processed or consumed by the plant site in the following calendar year, including the anticipated time periods for production, processing or consumption; and

(e) The purposes for which the chemical was or will be produced, processed or consumed:

- (i) Processing and consumption on site with a specification of the product types;
- (ii) Sale or transfer within the territory or to any other place under the jurisdiction or control of the State Party, with a specification whether to other industry, trader or other destination and, if possible, of final product types;
- (iii) Direct export, with a specification of the States involved; or
- (iv) Other, including a specification of these other purposes.

Declarations on past production of Schedule 2 chemicals for chemical weapons purposes

9. Each State Party shall, not later than 30 days after this Convention enters into force for it, declare all plant sites comprising plants that produced at any time since 1 January 1946 a Schedule 2 chemical for chemical weapons purposes.

10. Declarations of a plant site pursuant to paragraph 9 shall include:

(a) The name of the plant site and the name of the owner, company, or enterprise operating it;

(b) Its precise location including the address;

(c) For each plant which is located within the plant site, and which falls under the specifications set forth in paragraph 9, the same information as required under paragraph 7, subparagraphs (a) to (e); and

(d) For each Schedule 2 chemical produced for chemical weapons purposes:

(i) The chemical name, common or trade name used by the plant site for chemical weapons production purposes, structural formula, and Chemical Abstracts Service registry number, if assigned;

(ii) The dates when the chemical was produced and the quantity produced; and

(iii) The location to which the chemical was delivered and the final product produced there, if known.

Information to States Parties

11. A list of plant sites declared under this Section together with the information provided under paragraphs 6, 7 (a), 7 (c), 7 (d) (i), 7 (d) (iii), 8 (a) and 10 shall be transmitted by the Technical Secretariat to States Parties upon request.

B. VERIFICATION

General

12. Verification provided for in Article VI, paragraph 4, shall be carried out through on-site inspection at those of the declared plant sites that comprise one or more plants which produced, processed or consumed during any of the previous three calendar years or are anticipated to produce, process or consume in the next calendar year more than:

(a) 10 kg of a chemical designated "*" in Schedule 2, part A;

(b) 1 tonne of any other chemical listed in Schedule 2, part A; or

(c) 10 tonnes of a chemical listed in Schedule 2, part B.

13. The programme and budget of the Organization to be adopted by the Conference pursuant to Article VIII, paragraph 21 (a) shall contain, as a separate item, a programme and budget for verification under this Section. In the allocation of resources made available for verification under Article VI, the Technical Secretariat shall, during the first three years after the entry into force of this Convention, give priority to the initial inspections of plant sites declared under Section A. The allocation shall thereafter be reviewed on the basis of the experience gained.

14. The Technical Secretariat shall conduct initial inspections and subsequent inspections in accordance with paragraphs 15 to 22.

Inspection aims

15. The general aim of inspections shall be to verify that activities are in accordance with obligations under this Convention and consistent with the information to be provided in declarations. Particular aims of inspections at plant sites declared under Section A shall include verification of:

(a) The absence of any Schedule 1 chemical, especially its production, except if in accordance with Part VI of this Annex;

(b) Consistency with declarations of levels of production, processing or consumption of Schedule 2 chemicals; and

(c) Non-diversion of Schedule 2 chemicals for activities prohibited under this Convention.

Initial inspections

16. Each plant site to be inspected pursuant to paragraph 12 shall receive an initial inspection as soon as possible but preferably not later than three years after entry into force of this Convention. Plant sites declared after this period shall receive an initial inspection not later than one year after production, processing or consumption is first declared. Selection of plant sites for initial inspections shall be made by the Technical Secretariat in such a way as to preclude the prediction of precisely when the plant site is to be inspected.

17. During the initial inspection, a draft facility agreement for the plant site shall be prepared unless the inspected State Party and the Technical Secretariat agree that it is not needed.

18. With regard to frequency and intensity of subsequent inspections, inspectors shall during the initial inspection assess the risk to the object and purpose of this Convention posed by the relevant chemicals, the characteristics of the plant site and the nature of the activities carried out there, taking into account, inter alia, the following criteria:

(a) The toxicity of the scheduled chemicals and of the end-products produced with it, if any;

(b) The quantity of the scheduled chemicals typically stored at the inspected site;

(c) The quantity of feedstock chemicals for the scheduled chemicals typically stored at the inspected site;

(d) The production capacity of the Schedule 2 plants; and

(e) The capability and convertibility for initiating production, storage and filling of toxic chemicals at the inspected site.

Inspections

19. Having received the initial inspection, each plant site to be inspected pursuant to paragraph 12 shall be subject to subsequent inspections.

20. In selecting particular plant sites for inspection and in deciding on the frequency and intensity of inspections, the Technical Secretariat shall give due consideration to the risk to the object and purpose of this Convention posed by the relevant chemical, the characteristics of the plant site and the nature of the activities carried out there, taking into account the respective facility agreement as well as the results of the initial inspections and subsequent inspections.

21. The Technical Secretariat shall choose a particular plant site to be inspected in such a way as to preclude the prediction of exactly when it will be inspected.

22. No plant site shall receive more than two inspections per calendar year under the provisions of this Section. This, however, shall not limit inspections pursuant to Article IX.

Inspection procedures

23. In addition to agreed guidelines, other relevant provisions of this Annex and the Confidentiality Annex, paragraphs 24 to 30 below shall apply.

24. A facility agreement for the declared plant site shall be concluded not later than 90 days after completion of the initial inspection between the inspected State Party and the Organization unless the inspected State Party and the Technical Secretariat agree that it is not needed. It shall be based on a model agreement and govern the conduct of inspections at the declared plant site. The agreement shall specify the frequency and intensity of inspections as well as detailed inspection procedures, consistent with paragraphs 25 to 29.

25. The focus of the inspection shall be the declared Schedule 2 plant(s) within the declared plant site. If the inspection team requests access to other parts of the plant site, access to these areas shall be granted in accordance with the obligation to provide clarification pursuant to Part II, paragraph 51, of this Annex and in accordance with the facility agreement, or, in the absence of a facility agreement, in accordance with the rules of managed access as specified in Part X, Section C, of this Annex.

26. Access to records shall be provided, as appropriate, to provide assurance that there has been no diversion of the declared chemical and that production has been consistent with declarations.

27. Sampling and analysis shall be undertaken to check for the absence of undeclared scheduled chemicals.

28. Areas to be inspected may include:

(a) Areas where feed chemicals (reactants) are delivered or stored;

(b) Areas where manipulative processes are performed upon the reactants prior to addition to the reaction vessels;

(c) Feed lines as appropriate from the areas referred to in subparagraph (a) or subparagraph (b) to the reaction vessels together with any associated valves, flow meters, etc.;

(d) The external aspect of the reaction vessels and ancillary equipment;

(e) Lines from the reaction vessels leading to long- or short-term storage or to equipment further processing the declared Schedule 2 chemicals;

(f) Control equipment associated with any of the items under subparagraphs (a) to (e);

(g) Equipment and areas for waste and effluent handling;

(h) Equipment and areas for disposition of chemicals not up to specification.

29. The period of inspection shall not last more than 96 hours; however, extensions may be agreed between the inspection team and the inspected State Party.

Notification of inspection

30. A State Party shall be notified by the Technical Secretariat of the inspection not less than 48 hours before the arrival of the inspection team at the plant site to be inspected.

C. TRANSFERS TO STATES NOT PARTY TO THIS CONVENTION

31. Schedule 2 chemicals shall only be transferred to or received from States Parties. This obligation shall take effect three years after entry into force of this Convention.

32. During this interim three-year period, each State Party shall require an end-use certificate, as specified below, for transfers of Schedule 2 chemicals to States not Party to this Convention. For such transfers, each State Party shall adopt the necessary measures to ensure that the transferred chemicals shall only be used for purposes not prohibited under this Convention. *Inter alia*, the State Party shall require from the recipient State a certificate stating, in relation to the transferred chemicals:

(a) That they will only be used for purposes not prohibited under this Convention;

(b) That they will not be re-transferred;

(c) Their types and quantities;

(d) Their end-use(s); and

(e) The name(s) and address(es) of the end-user(s).

PART VIII

ACTIVITIES NOT PROHIBITED UNDER THIS CONVENTION IN ACCORDANCE WITH ARTICLE VI

REGIME FOR SCHEDULE 3 CHEMICALS AND FACILITIES RELATED TO SUCH CHEMICALS

A. DECLARATIONS

Declarations of aggregate national data

1. The initial and annual declarations to be provided by a State Party pursuant to Article VI, paragraphs 7 and 8, shall include aggregate national data for the previous calendar year on the quantities produced, imported and exported of each Schedule 3 chemical, as well as a quantitative specification of import and export for each country involved.

2. Each State Party shall submit:

(a) Initial declarations pursuant to paragraph 1 not later than 30 days after this Convention enters into force for it; and, starting in the following calendar year,

(b) Annual declarations not later than 90 days after the end of the previous calendar year.

Declarations of plant sites producing Schedule 3 chemicals

3. Initial and annual declarations are required for all plant sites that comprise one or more plants which produced during the previous calendar year or are anticipated to produce in the next calendar year more than 30 tonnes of a Schedule 3 chemical.

4. Each State Party shall submit:

(a) Initial declarations pursuant to paragraph 3 not later than 30 days after this Convention enters into force for it; and, starting in the following calendar year;

(b) Annual declarations on past activities not later than 90 days after the end of the previous calendar year;

(c) Annual declarations on anticipated activities not later than 60 days before the beginning of the following calendar year. Any such activity additionally planned after the annual declaration has been submitted shall be declared not later than five days before this activity begins.

5. Declarations pursuant to paragraph 3 are generally not required for mixtures containing a low concentration of a Schedule 3 chemical. They are only required, in accordance with guidelines, in such cases where the ease of recovery from the mixture of the Schedule 3 chemical and its total weight are deemed to pose a risk to the object and purpose of this Convention. These guidelines shall be considered and approved by the Conference pursuant to Article VIII, paragraph 21 (i).

6. Declarations of a plant site pursuant to paragraph 3 shall include:

(a) The name of the plant site and the name of the owner, company, or enterprise operating it;

(b) Its precise location including the address; and

(c) The number of plants within the plant site which are declared pursuant to Part VII of this Annex.

7. Declarations of a plant site pursuant to paragraph 3 shall also include, for each plant which is located within the plant site and which falls under the specifications set forth in paragraph 3, the following information:

(a) The name of the plant and the name of the owner, company, or enterprise operating it;

(b) Its precise location within the plant site, including the specific building or structure number, if any;

(c) Its main activities.

8. Declarations of a plant site pursuant to paragraph 3 shall also include the following information on each Schedule 3 chemical above the declaration threshold:

(a) The chemical name, common or trade name used by the facility, structural formula, and Chemical Abstracts Service registry number, if assigned;

(b) The approximate amount of production of the chemical in the previous calendar year, or, in case of declarations on anticipated activities, anticipated for the next calendar year, expressed in the ranges: 30 to 200 tonnes, 200 to 1,000 tonnes, 1,000 to 10,000 tonnes, 10,000 to 100,000 tonnes, and above 100,000 tonnes; and

(c) The purposes for which the chemical was or will be produced.

Declarations on past production of Schedule 3 chemicals for chemical weapons purposes

9. Each State Party shall, not later than 30 days after this Convention enters into force for it, declare all plant sites comprising plants that produced at any time since 1 January 1946 a Schedule 3 chemical for chemical weapons purposes.

10. Declarations of a plant site pursuant to paragraph 9 shall include:

(a) The name of the plant site and the name of the owner, company, or enterprise operating it;

(b) Its precise location including the address;

(c) For each plant which is located within the plant site, and which falls under the specifications set forth in paragraph 9, the same information as required under paragraph 7, subparagraphs (a) to (c); and

(d) For each Schedule 3 chemical produced for chemical weapons purposes:

(i) The chemical name, common or trade name used by the plant site for chemical weapons production purposes, structural formula, and Chemical Abstracts Service registry number, if assigned;

(ii) The dates when the chemical was produced and the quantity produced; and

(iii) The location to which the chemical was delivered and the final product produced there, if known.

Information to States Parties

11. A list of plant sites declared under this Section together with the information provided under paragraphs 6, 7 (a), 7 (c), 8 (a) and 10 shall be transmitted by the Technical Secretariat to States Parties upon request.

B. VERIFICATION

General

12. Verification provided for in paragraph 5 of Article VI shall be carried out through on-site inspections at those declared plant sites which produced during the previous calendar year or are anticipated to produce in the next calendar year in excess of 200 tonnes aggregate of any Schedule 3 chemical above the declaration threshold of 30 tonnes.

13. The programme and budget of the Organization to be adopted by the Conference pursuant to Article VIII, paragraph 21 (a), shall contain, as a separate item, a programme and budget for verification under this Section taking into account Part VII, paragraph 13, of this Annex.

14. Under this Section, the Technical Secretariat shall randomly select plant sites for inspection through appropriate mechanisms, such as the use of specially designed computer software, on the basis of the following weighting factors:

(a) Equitable geographical distribution of inspections; and

(b) The information on the declared plant sites available to the Technical Secretariat, related to the relevant chemical, the characteristics of the plant site and the nature of the activities carried out there.

15. No plant site shall receive more than two inspections per year under the provisions of this Section. This, however, shall not limit inspections pursuant to Article IX.

16. In selecting plant sites for inspection under this Section, the Technical Secretariat shall observe the following limitation for the combined number of inspections to be received by a State Party per calendar year under this Part and Part IX of this Annex: the combined number of inspections shall not exceed three plus 5 per cent of the total number of plant sites declared by a State Party under both this Part and Part IX of this Annex, or 20 inspections, whichever of these two figures is lower.

Inspection aims

17. At plant sites declared under Section A, the general aim of inspections shall be to verify that activities are consistent with the information to be provided in declarations. The particular aim of inspections shall be the verification of the absence of any Schedule 1 chemical, especially its production, except if in accordance with Part VI of this Annex.

Inspection procedures

18. In addition to agreed guidelines, other relevant provisions of this Annex and the Confidentiality Annex, paragraphs 19 to 25 below shall apply.

19. There shall be no facility agreement, unless requested by the inspected State Party.

20. The focus of the inspections shall be the declared Schedule 3 plant(s) within the declared plant site. If the inspection team, in accordance with Part II, paragraph 51, of this Annex, requests access to other parts of the plant site for clarification of ambiguities, the extent of such access shall be agreed between the inspection team and the inspected State Party.

21. The inspection team may have access to records in situations in which the inspection team and the inspected State Party agree that such access will assist in achieving the objectives of the inspection.

22. Sampling and on-site analysis may be undertaken to check for the absence of undeclared scheduled chemicals. In case of unresolved ambiguities, samples may be analysed in a designated off-site laboratory, subject to the inspected State Party's agreement.

23. Areas to be inspected may include:

(a) Areas where feed chemicals (reactants) are delivered or stored;

(b) Areas where manipulative processes are performed upon the reactants prior to addition to the reaction vessel;

(c) Feed lines as appropriate from the areas referred to in subparagraph (a) or subparagraph (b) to the reaction vessel together with any associated valves, flow meters, etc.;

(d) The external aspect of the reaction vessels and ancillary equipment;

(e) Lines from the reaction vessels leading to long- or short-term storage or to equipment further processing the declared Schedule 3 chemicals;

(f) Control equipment associated with any of the items under subparagraphs (a) to (e);

(g) Equipment and areas for waste and effluent handling;

(h) Equipment and areas for disposition of chemicals not up to specification.

24. The period of inspection shall not last more than 24 hours; however, extensions may be agreed between the inspection team and the inspected State Party.

Notification of inspection

25. A State Party shall be notified by the Technical Secretariat of the inspection not less than 120 hours before the arrival of the inspection team at the plant site to be inspected.

C. TRANSFERS TO STATES NOT PARTY TO THIS CONVENTION

26. When transferring Schedule 3 chemicals to States not Party to this Convention, each State Party shall adopt the necessary measures to ensure that the transferred chemicals shall only be used for purposes not prohibited under this Convention. Inter alia, the State Party shall require from the recipient State a certificate stating, in relation to the transferred chemicals:

(a) That they will only be used for purposes not prohibited under this Convention;

(b) That they will not be re-transferred;

(c) Their types and quantities;

(d) Their end-use(s); and

(e) The name(s) and address(es) of the end-user(s).

27. Five years after entry into force of this Convention, the Conference shall consider the need to establish other measures regarding transfers of Schedule 3 chemicals to States not Party to this Convention.

PART IX

ACTIVITIES NOT PROHIBITED UNDER THIS CONVENTION IN ACCORDANCE WITH ARTICLE VI

REGIME FOR OTHER CHEMICAL PRODUCTION FACILITIES

A. DECLARATIONS

List of other chemical production facilities

1. The initial declaration to be provided by each State Party pursuant to Article VI, paragraph 7, shall include a list of all plant sites that:

(a) Produced by synthesis during the previous calendar year more than 200 tonnes of unscheduled discrete organic chemicals; or

(b) Comprise one or more plants which produced by synthesis during the previous calendar year more than 30 tonnes of an unscheduled discrete organic chemical containing the elements phosphorus, sulfur or fluorine (hereinafter referred to as "PSF-plants" and "PSF-chemical").

2. The list of other chemical production facilities to be submitted pursuant to paragraph 1 shall not include plant sites that exclusively produced explosives or hydrocarbons.

3. Each State Party shall submit its list of other chemical production facilities pursuant to paragraph 1 as part of its initial declaration not later than 30 days after this Convention enters into force for it. Each State Party shall, not later than 90 days after the beginning of each following calendar year, provide annually the information necessary to update the list.

4. The list of other chemical production facilities to be submitted pursuant to paragraph 1 shall include the following information on each plant site:

(a) The name of the plant site and the name of the owner, company, or enterprise operating it;

(b) The precise location of the plant site including its address;

(c) Its main activities; and

(d) The approximate number of plants producing the chemicals specified in paragraph 1 in the plant site.

5. With regard to plant sites listed pursuant to paragraph 1 (a), the list shall also include information on the approximate aggregate amount of production of the unscheduled discrete organic chemicals in the previous calendar year expressed in the ranges: under 1,000 tonnes, 1,000 to 10,000 tonnes and above 10,000 tonnes.

6. With regard to plant sites listed pursuant to paragraph 1 (b), the list shall also specify the number of PSF-plants within the plant site and include information on the approximate aggregate amount of production of PSF-chemicals produced by each PSF-plant in the previous calendar year expressed in the ranges: under 200 tonnes, 200 to 1,000 tonnes, 1,000 to 10,000 tonnes and above 10,000 tonnes.

Assistance by the Technical Secretariat

7. If a State Party, for administrative reasons, deems it necessary to ask for assistance in compiling its list of chemical production facilities pursuant to paragraph 1, it may request the Technical Secretariat to provide such assistance. Questions as to the completeness of the list shall then be resolved through consultations between the State Party and the Technical Secretariat.

Information to States Parties

8. The lists of other chemical production facilities submitted pursuant to paragraph 1, including the information provided under paragraph 4, shall be transmitted by the Technical Secretariat to States Parties upon request.

B. VERIFICATION

General

9. Subject to the provisions of Section C, verification as provided for in Article VI, paragraph 6, shall be carried out through on-site inspection at:

(a) Plant sites listed pursuant to paragraph 1 (a); and

(b) Plant sites listed pursuant to paragraph 1 (b) that comprise one or more PSF-plants which produced during the previous calendar year more than 200 tonnes of a PSF-chemical.

10. The programme and budget of the Organization to be adopted by the Conference pursuant to Article VIII, paragraph 21 (a), shall contain, as a separate item, a programme and budget for verification under this Section after its implementation has started.

11. Under this Section, the Technical Secretariat shall randomly select plant sites for inspection through appropriate mechanisms, such as the use of specially designed computer software, on the basis of the following weighting factors:

(a) Equitable geographical distribution of inspections;

(b) The information on the listed plant sites available to the Technical Secretariat, related to the characteristics of the plant site and the activities carried out there; and

(c) Proposals by States Parties on a basis to be agreed upon in accordance with paragraph 25.

12. No plant site shall receive more than two inspections per year under the provisions of this Section. This, however, shall not limit inspections pursuant to Article IX.

13. In selecting plant sites for inspection under this Section, the Technical Secretariat shall observe the following limitation for the combined number of inspections to be received by a State Party per calendar year under this Part and Part VIII of this Annex: the combined number of inspections shall not exceed three plus 5 per cent of the total number of plant sites declared by a State Party under both this Part and Part VIII of this Annex, or 20 inspections, whichever of these two figures is lower.

Inspection aims

14. At plant sites listed under Section A, the general aim of inspections shall be to verify that activities are consistent with the information to be provided in declarations. The particular aim of inspections shall be the verification of the absence of any Schedule 1 chemical, especially its production, except if in accordance with Part VI of this Annex.

Inspection procedures

15. In addition to agreed guidelines, other relevant provisions of this Annex and the Confidentiality Annex, paragraphs 16 to 20 below shall apply.

16. There shall be no facility agreement, unless requested by the inspected State Party.

17. The focus of inspection at a plant site selected for inspection shall be the plant(s) producing the chemicals specified in paragraph 1, in particular the PSF-plants listed pursuant to paragraph 1 (b). The inspected State Party shall have the right to manage access to these plants in accordance with the rules of managed access as specified in Part X, Section C, of this Annex. If the inspection team, in accordance with Part II, paragraph 51, of this Annex, requests access to other parts of the plant site for clarification of ambiguities, the extent of such access shall be agreed between the inspection team and the inspected State Party.

18. The inspection team may have access to records in situations in which the inspection team and the inspected State Party agree that such access will assist in achieving the objectives of the inspection.

19. Sampling and on-site analysis may be undertaken to check for the absence of undeclared scheduled chemicals. In cases of unresolved ambiguities, samples may be analysed in a designated off-site laboratory, subject to the inspected State Party's agreement.

20. The period of inspection shall not last more than 24 hours; however, extensions may be agreed between the inspection team and the inspected State Party.

Notification of Inspection

21. A State Party shall be notified by the Technical Secretariat of the inspection not less than 120 hours before the arrival of the inspection team at the plant site to be inspected.

C. IMPLEMENTATION AND REVIEW OF SECTION B

Implementation

22. The implementation of Section B shall start at the beginning of the fourth year after entry into force of this Convention unless the Conference, at its regular session in the third year after entry into force of this Convention, decides otherwise.

23. The Director-General shall, for the regular session of the Conference in the third year after entry into force of this Convention, prepare a report which outlines the experience of the Technical Secretariat in implementing the provisions of Parts VII and VIII of this Annex as well as of Section A of this Part.

24. At its regular session in the third year after entry into force of this Convention, the Conference, on the basis of a report of the Director-General, may also decide on the distribution of resources available for verification under Section B between "PSF-plants" and other chemical production facilities. Otherwise, this distribution shall be left to the expertise of the Technical Secretariat and be added to the weighting factors in paragraph 11.

25. At its regular session in the third year after entry into force of this Convention, the Conference, upon advice of the Executive Council, shall decide on which basis (e.g. regional) proposals by States Parties for inspections should be presented to be taken into account as a weighting factor in the selection process specified in paragraph 11.

Review

26. At the first special session of the Conference convened pursuant to Article VIII, paragraph 22, the provisions of this Part of the Verification Annex shall be re-examined in the light of a comprehensive review of the overall verification regime for the chemical industry (Article VI, Parts VII to IX of this Annex) on the basis of the experience gained. The Conference shall then make recommendations so as to improve the effectiveness of the verification regime.

PART X

CHALLENGE INSPECTIONS PURSUANT TO ARTICLE IX

A. DESIGNATION AND SELECTION OF INSPECTORS AND INSPECTION ASSISTANTS

1. Challenge inspections pursuant to Article IX shall only be performed by inspectors and inspection assistants especially designated for this function. In order to designate inspectors and inspection assistants for challenge inspections pursuant to Article IX, the Director-General shall, by selecting inspectors and inspection assistants from among the inspectors and inspection assistants for routine inspection activities, establish a list of proposed inspectors and inspection assistants. It shall comprise a sufficiently large number of inspectors and inspection assistants having the necessary qualification, experience, skill and training, to allow for flexibility in the selection of the inspectors, taking into account their availability, and the need for rotation. Due regard shall be paid also to the importance of selecting inspectors and inspection assistants on as wide a geographical basis as possible. The designation of inspectors and inspection assistants shall follow the procedures provided for under Part II, Section A, of this Annex.

2. The Director-General shall determine the size of the inspection team and select its members taking into account the circumstances of a particular request. The size of the inspection team shall be kept to a minimum necessary for the proper fulfilment of the inspection mandate. No national of the requesting State Party or the inspected State Party shall be a member of the inspection team.

B. PRE-INSPECTION ACTIVITIES

3. Before submitting the inspection request for a challenge inspection, the State Party may seek confirmation from the Director-General that the Technical Secretariat is in a position to take immediate action on the request. If the Director-General cannot provide such confirmation immediately, he shall do so at the earliest opportunity, in keeping with the order of requests for confirmation. He shall also keep the State Party informed of when it is likely that immediate action can be taken. Should the Director-General reach the conclusion that timely action on requests can no longer be taken, he may ask the Executive Council to take appropriate action to improve the situation in the future.

Notification

4. The inspection request for a challenge inspection to be submitted to the Executive Council and the Director-General shall contain at least the following information:

(a) The State Party to be inspected and, if applicable, the Host State;

(b) The point of entry to be used;

(c) The size and type of the inspection site;

(d) The concern regarding possible non-compliance with this Convention including a specification of the relevant provisions of this Convention about which the concern has arisen, and of the nature and circumstances of the possible non-compliance as well as all appropriate information on the basis of which the concern has arisen; and

(e) The name of the observer of the requesting State Party.

The requesting State Party may submit any additional information it deems necessary.

5. The Director-General shall within one hour acknowledge to the requesting State Party receipt of its request.

6. The requesting State Party shall notify the Director-General of the location of the inspection site in due time for the Director-General to be able to provide this information to the inspected State Party not less than 12 hours before the planned arrival of the inspection team at the point of entry.

7. The inspection site shall be designated by the requesting State Party as specifically as possible by providing a site diagram related to a reference point with geographic coordinates, specified to the nearest second if possible. If possible, the requesting State Party shall also provide a map with a general indication of the inspection site and a diagram specifying as precisely as possible the requested perimeter of the site to be inspected.

8. The requested perimeter shall:

(a) Run at least a 10 metre distance outside any buildings or other structures;

(b) Not cut through existing security enclosures; and

(c) Run at least a 10 metre distance outside any existing security enclosures that the requesting State Party intends to include within the requested perimeter.

9. If the requested perimeter does not conform with the specifications of paragraph 8, it shall be redrawn by the inspection team so as to conform with that provision.

10. The Director-General shall, not less than 12 hours before the planned arrival of the inspection team at the point of entry, inform the Executive Council about the location of the inspection site as specified in paragraph 7.

11. Contemporaneously with informing the Executive Council according to paragraph 10, the Director-General shall transmit the inspection request to the inspected State Party including the location of the inspection site as specified in paragraph 7. This notification shall also include the information specified in Part II, paragraph 32, of this Annex.

12. Upon arrival of the inspection team at the point of entry, the inspected State Party shall be informed by the inspection team of the inspection mandate.

Entry into the territory of the inspected State Party or the Host State

13. The Director-General shall, in accordance with Article IX, paragraphs 13 to 18, dispatch an inspection team as soon as possible after an inspection request has been received. The inspection team shall arrive at the point of entry specified in the request in the minimum time possible, consistent with the provisions of paragraphs 10 and 11.

14. If the requested perimeter is acceptable to the inspected State Party, it shall be designated as the final perimeter as early as possible, but in no case later than 24 hours after the arrival of the inspection team at the point of entry. The inspected State Party shall transport the inspection team to the final perimeter of the inspection site. If the inspected State Party deems it necessary, such transportation may begin up to 12 hours before the expiry of the time period specified in this paragraph for the designation of the final perimeter. Transportation shall, in any case, be completed not later than 36 hours after the arrival of the inspection team at the point of entry.

15. For all declared facilities, the procedures in subparagraphs (a) and (b) shall apply. (For the purposes of this Part, "declared facility" means all facilities declared pursuant to Articles III, IV, and V. With regard to Article VI, "declared facility" means only facilities declared pursuant to Part VI of this Annex, as well as declared plants specified by declarations pursuant to Part VII, paragraphs 7 and 10 (c), and Part VIII, paragraphs 7 and 10 (c), of this Annex.)

(a) If the requested perimeter is contained within or conforms with the declared perimeter, the declared perimeter shall be considered the final perimeter. The final perimeter may, however, if agreed by the inspected State Party, be made smaller in order to conform with the perimeter requested by the requesting State Party.

(b) The inspected State Party shall transport the inspection team to the final perimeter as soon as practicable, but in any case shall ensure their arrival at the perimeter not later than 24 hours after the arrival of the inspection team at the point of entry.

Alternative determination of final perimeter

16. At the point of entry, if the inspected State Party cannot accept the requested perimeter, it shall propose an alternative perimeter as soon as possible, but in any case not later than 24 hours after the arrival of the inspection team at the point of entry. In case of differences of opinion, the inspected State Party and the inspection team shall engage in negotiations with the aim of reaching agreement on a final perimeter.

17. The alternative perimeter should be designated as specifically as possible in accordance with paragraph 8. It shall include the whole of the requested perimeter and should, as a rule, bear a close relationship to the latter, taking into account natural terrain features and man-made boundaries. It should normally run close to the surrounding security barrier if such a barrier exists. The inspected State Party should seek to establish such a relationship between the perimeters by a combination of at least two of the following means:

(a) An alternative perimeter that does not extend to an area significantly greater than that of the requested perimeter;

(b) An alternative perimeter that is a short, uniform distance from the requested perimeter;

(c) At least part of the requested perimeter is visible from the alternative perimeter.

18. If the alternative perimeter is acceptable to the inspection team, it shall become the final perimeter and the inspection team shall be transported from the point of entry to that perimeter. If the inspected State Party deems it necessary, such transportation may begin up to 12 hours before the expiry of the time period specified in paragraph 16 for proposing an alternative perimeter. Transportation shall, in any case, be completed not later than 36 hours after the arrival of the inspection team at the point of entry.

19. If a final perimeter is not agreed, the perimeter negotiations shall be concluded as early as possible, but in no case shall they continue more than 24 hours after the arrival of the inspection team at the point of entry. If no agreement is reached, the inspected State Party shall transport the inspection team to a location at the alternative perimeter. If the inspected State Party deems it necessary, such transportation may begin up to 12 hours before the expiry of the time period specified in paragraph 16 for proposing an alternative perimeter. Transportation shall, in any case, be completed not later than 36 hours after the arrival of the inspection team at the point of entry.

20. Once at the location, the inspected State Party shall provide the inspection team with prompt access to the alternative perimeter to facilitate negotiations and agreement on the final perimeter and access within the final perimeter.

21. If no agreement is reached within 72 hours after the arrival of the inspection team at the location, the alternative perimeter shall be designated the final perimeter.

Verification of location

22. To help establish that the inspection site to which the inspection team has been transported corresponds to the inspection site specified by the requesting State Party, the inspection team shall have the right to use approved location-finding equipment and have such equipment installed according to its directions. The inspection team may verify its location by reference to local landmarks identified from maps. The inspected State Party shall assist the inspection team in this task.

Securing the site, exit monitoring

23. Not later than 12 hours after the arrival of the inspection team at the point of entry, the inspected State Party shall begin collecting factual information of all vehicular exit activity from all exit points for all land, air, and water vehicles of the requested perimeter. It shall provide this information to the inspection team upon its arrival at the alternative or final perimeter, whichever occurs first.

24. This obligation may be met by collecting factual information in the form of traffic logs, photographs, video recordings, or data from chemical evidence equipment provided by the inspection team to monitor such exit activity. Alternatively, the inspected State Party may also meet this obligation by allowing one or more members of the inspection team independently to maintain traffic logs, take photographs, make video recordings of exit traffic, or use chemical evidence equipment, and conduct other activities as may be agreed between the inspected State Party and the inspection team.

25. Upon the inspection team's arrival at the alternative perimeter or final perimeter, whichever occurs first, securing the site, which means exit monitoring procedures by the inspection team, shall begin.

26. Such procedures shall include: the identification of vehicular exits, the making of traffic logs, the taking of photographs, and the making of video recordings by the inspection team of exits and exit traffic. The inspection team has the right to go, under escort, to any other part of the perimeter to check that there is no other exit activity.

27. Additional procedures for exit monitoring activities as agreed upon by the inspection team and the inspected State Party may include, *inter alia*:

(a) Use of sensors;

(b) Random selective access;

(c) Sample analysis.

28. All activities for securing the site and exit monitoring shall take place within a band around the outside of the perimeter, not exceeding 50 metres in width, measured outward.

29. The inspection team has the right to inspect on a managed access basis vehicular traffic exiting the site. The inspected State Party shall make every reasonable effort to demonstrate to the inspection team that any vehicle, subject to inspection, to which the inspection team is not granted full access, is not being used for purposes related to the possible non-compliance concerns raised in the inspection request.

30. Personnel and vehicles entering and personnel and personal passenger vehicles exiting the site are not subject to inspection.

31. The application of the above procedures may continue for the duration of the inspection, but may not unreasonably hamper or delay the normal operation of the facility.

Pre-inspection briefing and inspection plan

32. To facilitate development of an inspection plan, the inspected State Party shall provide a safety and logistical briefing to the inspection team prior to access.

33. The pre-inspection briefing shall be held in accordance with Part II, paragraph 37, of this Annex. In the course of the pre-inspection briefing, the inspected State Party may indicate to the inspection team the equipment, documentation, or areas it considers sensitive and not related to the purpose of the challenge inspection. In addition, personnel responsible for the site shall brief the inspection team on the physical layout and other relevant characteristics of the site. The inspection team shall be provided with a map or sketch drawn to scale showing all structures and significant geographic features at the site. The inspection team shall also be briefed on the availability of facility personnel and records.

34. After the pre-inspection briefing, the inspection team shall prepare, on the basis of the information available and appropriate to it, an initial inspection plan which specifies the activities to be carried out by the inspection team, including the specific areas of the site to which access is desired. The inspection plan shall also specify whether the inspection team will be divided into subgroups. The inspection plan shall be made available to the representatives of the inspected State Party and the inspection site. Its implementation shall be consistent with the provisions of Section C, including those related to access and activities.

Perimeter activities

35. Upon the inspection team's arrival at the final or alternative perimeter, whichever occurs first, the team shall have the right to commence immediately perimeter activities in accordance with the procedures set forth under this Section, and to continue these activities until the completion of the challenge inspection.

36. In conducting the perimeter activities, the inspection team shall have the right to:

(a) Use monitoring instruments in accordance with Part II, paragraphs 27 to 30, of this Annex;

(b) Take wipes, air, soil or effluent samples; and

(c) Conduct any additional activities which may be agreed between the inspection team and the inspected State Party.

37. The perimeter activities of the inspection team may be conducted within a band around the outside of the perimeter up to 50 metres in width measured outward from the perimeter. If the inspected State Party agrees, the inspection team may also have access to any building or structure within the perimeter band. All directional monitoring shall be oriented inward. For declared facilities, at the discretion of the inspected State Party, the band could run inside, outside, or on both sides of the declared perimeter.

C. CONDUCT OF INSPECTIONS

General rules

38. The inspected State Party shall provide access within the requested perimeter as well as, if different, the final perimeter. The extent and nature of access to a particular place or places within these perimeters shall be negotiated between the inspection team and the inspected State Party on a managed access basis.

39. The inspected State Party shall provide access within the requested perimeter as soon as possible, but in any case not later than 108 hours after the arrival of the inspection team at the point of entry in order to clarify the concern regarding possible non-compliance with this Convention raised in the inspection request.

40. Upon the request of the inspection team, the inspected State Party may provide aerial access to the inspection site.

41. In meeting the requirement to provide access as specified in paragraph 38, the inspected State Party shall be under the obligation to allow the greatest degree of access taking into account any constitutional obligations it may have with regard to proprietary rights or searches and seizures. The inspected State Party has the right under managed access to

take such measures as are necessary to protect national security. The provisions in this paragraph may not be invoked by the inspected State Party to conceal evasion of its obligations not to engage in activities prohibited under this Convention.

42. If the inspected State Party provides less than full access to places, activities, or information, it shall be under the obligation to make every reasonable effort to provide alternative means to clarify the possible non-compliance concern that generated the challenge inspection.

43. Upon arrival at the final perimeter of facilities declared pursuant to Articles IV, V and VI, access shall be granted following the pre-inspection briefing and discussion of the inspection plan which shall be limited to the minimum necessary and in any event shall not exceed three hours. For facilities declared pursuant to Article III, paragraph 1 (d), negotiations shall be conducted and managed access commenced not later than 12 hours after arrival at the final perimeter.

44. In carrying out the challenge inspection in accordance with the inspection request, the inspection team shall use only those methods necessary to provide sufficient relevant facts to clarify the concern about possible non-compliance with the provisions of this Convention, and shall refrain from activities not relevant thereto. It shall collect and document such facts as are related to the possible non-compliance with this Convention by the inspected State Party, but shall neither seek nor document information which is clearly not related thereto, unless the inspected State Party expressly requests it to do so. Any material collected and subsequently found not to be relevant shall not be retained.

45. The inspection team shall be guided by the principle of conducting the challenge inspection in the least intrusive manner possible, consistent with the effective and timely accomplishment of its mission. Wherever possible, it shall begin with the least intrusive procedures it deems acceptable and proceed to more intrusive procedures only as it deems necessary.

Managed access

46. The inspection team shall take into consideration suggested modifications of the inspection plan and proposals which may be made by the inspected State Party, at whatever stage of the inspection including the pre-inspection briefing, to ensure that sensitive equipment, information or areas, not related to chemical weapons, are protected.

47. The inspected State Party shall designate the perimeter entry/exit points to be used for access. The inspection team and the inspected State Party shall negotiate: the extent of access to any particular place or places within the final and requested perimeters as provided in paragraph 48; the

particular inspection activities, including sampling, to be conducted by the inspection team; the performance of particular activities by the inspected State Party; and the provision of particular information by the inspected State Party.

48. In conformity with the relevant provisions in the Confidentiality Annex the inspected State Party shall have the right to take measures to protect sensitive installations and prevent disclosure of confidential information and data not related to chemical weapons. Such measures may include, inter alia:

(a) Removal of sensitive papers from office spaces;

(b) Shrouding of sensitive displays, stores, and equipment;

(c) Shrouding of sensitive pieces of equipment, such as computer or electronic systems;

(d) Logging off of computer systems and turning off of data indicating devices;

(e) Restriction of sample analysis to presence or absence of chemicals listed in Schedules 1, 2 and 3 or appropriate degradation products;

(f) Using random selective access techniques whereby the inspectors are requested to select a given percentage or number of buildings of their choice to inspect; the same principle can apply to the interior and content of sensitive buildings;

(g) In exceptional cases, giving only individual inspectors access to certain parts of the inspection site.

49. The inspected State Party shall make every reasonable effort to demonstrate to the inspection team that any object, building, structure, container or vehicle to which the inspection team has not had full access, or which has been protected in accordance with paragraph 48, is not used for purposes related to the possible non-compliance concerns raised in the inspection request.

50. This may be accomplished by means of, inter alia, the partial removal of a shroud or environmental protection cover, at the discretion of the inspected State Party, by means of a visual inspection of the interior of an enclosed space from its entrance, or by other methods.

51. In the case of facilities declared pursuant to Articles IV, V and VI, the following shall apply:

(a) For facilities with facility agreements, access and activities within the final perimeter shall be unimpeded within the boundaries established by the agreements;

(b) For facilities without facility agreements, negotiation of access and activities shall be governed by the applicable general inspection guidelines established under this Convention;

(c) Access beyond that granted for inspections under Articles IV, V and VI shall be managed in accordance with procedures of this section.

52. In the case of facilities declared pursuant to Article III, paragraph 1 (d), the following shall apply: if the inspected State Party, using procedures of paragraphs 47 and 48, has not granted full access to areas or structures not related to chemical weapons, it shall make every reasonable effort to demonstrate to the inspection team that such areas or structures are not used for purposes related to the possible non-compliance concerns raised in the inspection request.

Observer

53. In accordance with the provisions of Article IX, paragraph 12, on the participation of an observer in the challenge inspection, the requesting State Party shall liaise with the Technical Secretariat to coordinate the arrival of the observer at the same point of entry as the inspection team within a reasonable period of the inspection team's arrival.

54. The observer shall have the right throughout the period of inspection to be in communication with the embassy of the requesting State Party located in the inspected State Party or in the Host State or, in the case of absence of an embassy, with the requesting State Party itself. The inspected State Party shall provide means of communication to the observer.

55. The observer shall have the right to arrive at the alternative or final perimeter of the inspection site, wherever the inspection team arrives first, and to have access to the inspection site as granted by the inspected State Party. The observer shall have the right to make recommendations to the inspection team, which the team shall take into account to the extent it deems appropriate. Throughout the inspection, the inspection team shall keep the observer informed about the conduct of the inspection and the findings.

56. Throughout the in-country period, the inspected State Party shall provide or arrange for the amenities necessary for the observer such as communication means, interpretation services, transportation, working space, lodging, meals and medical care. All the costs in connection with the stay of the observer on the territory of the inspected State Party or the Host State shall be borne by the requesting State Party.

Duration of inspection

57. The period of inspection shall not exceed 84 hours, unless extended by agreement with the inspected State Party.

D. POST-INSPECTION ACTIVITIES

Departure

58. Upon completion of the post-inspection procedures at the inspection site, the inspection team and the observer of the requesting State Party shall proceed promptly to a point of entry and shall then leave the territory of the inspected State Party in the minimum time possible.

Reports

59. The inspection report shall summarize in a general way the activities conducted by the inspection team and the factual findings of the inspection team, particularly with regard to the concerns regarding possible non-compliance with this Convention cited in the request for the challenge inspection, and shall be limited to information directly related to this Convention. It shall also include an assessment by the inspection team of the degree and nature of access and cooperation granted to the inspectors and the extent to which this enabled them to fulfil the inspection mandate. Detailed information relating to the concerns regarding possible non-compliance with this Convention cited in the request for the challenge inspection shall be submitted as an Appendix to the final report and be retained within the Technical Secretariat under appropriate safeguards to protect sensitive information.

60. The inspection team shall, not later than 72 hours after its return to its primary work location, submit a preliminary inspection report, having taken into account, *inter alia*, paragraph 17 of the Confidentiality Annex, to the Director-General. The Director-General shall promptly transmit the preliminary inspection report to the requesting State Party, the inspected State Party and to the Executive Council.

61. A draft final inspection report shall be made available to the inspected State Party not later than 20 days after the completion of the challenge inspection. The inspected State Party has the right to identify any information and data not related to chemical weapons which should, in its view, due to its confidential character, not be circulated outside the Technical Secretariat. The Technical Secretariat shall consider proposals for changes to the draft final inspection report made by the inspected State Party and, using its own discretion, wherever possible, adopt them. The final report shall then be submitted not later than 30 days after the completion of the challenge inspection to the Director-General for further distribution and consideration in accordance with Article IX, paragraphs 21 to 25.

PART XI

INVESTIGATIONS IN CASES OF ALLEGED USE OF CHEMICAL WEAPONS

A. GENERAL

1. Investigations of alleged use of chemical weapons, or of alleged use of riot control agents as a method of warfare, initiated pursuant to Articles IX or X, shall be conducted in accordance with this Annex and detailed procedures to be established by the Director-General.

2. The following additional provisions address specific procedures required in cases of alleged use of chemical weapons.

B. PRE-INSPECTION ACTIVITIES

Request for an investigation

3. The request for an investigation of an alleged use of chemical weapons to be submitted to the Director-General, to the extent possible, should include the following information:

(a) The State Party on whose territory use of chemical weapons is alleged to have taken place;

(b) The point of entry or other suggested safe routes of access;

(c) Location and characteristics of the areas where chemical weapons are alleged to have been used;

(d) When chemical weapons are alleged to have been used;

(e) Types of chemical weapons believed to have been used;

(f) Extent of alleged use;

(g) Characteristics of the possible toxic chemicals;

(h) Effects on humans, animals and vegetation;

(i) Request for specific assistance, if applicable.

4. The State Party which has requested an investigation may submit at any time any additional information it deems necessary.

Notification

5. The Director-General shall immediately acknowledge receipt to the requesting State Party of its request and inform the Executive Council and all States Parties.

6. If applicable, the Director-General shall notify the State Party on whose territory an investigation has been requested. The Director-General shall also notify other States Parties if access to their territories might be required during the investigation.

Assignment of inspection team

7. The Director-General shall prepare a list of qualified experts whose particular field of expertise could be required in an investigation of alleged use of chemical weapons and constantly keep this list updated. This list shall be communicated, in writing, to each State Party not later than 30 days after entry into force of this Convention and after each change to the list. Any qualified expert included in this list shall be regarded as designated unless a State Party, not later than 30 days after its receipt of the list, declares its non-acceptance in writing.

8. The Director-General shall select the leader and members of an inspection team from the inspectors and inspection assistants already designated for challenge inspections taking into account the circumstances and specific nature of a particular request. In addition, members of the inspection team may be selected from the list of qualified experts when, in the view of the Director-General, expertise not available among inspectors already designated is required for the proper conduct of a particular investigation.

9. When briefing the inspection team, the Director-General shall include any additional information provided by the requesting State Party, or any other sources, to ensure that the inspection can be carried out in the most effective and expedient manner.

Dispatch of inspection team

10. Immediately upon the receipt of a request for an investigation of alleged use of chemical weapons the Director-General shall, through contacts with the relevant States Parties, request and confirm arrangements for the safe reception of the team.

11. The Director-General shall dispatch the team at the earliest opportunity, taking into account the safety of the team.

12. If the inspection team has not been dispatched within 24 hours from the receipt of the request, the Director-General shall inform the Executive Council and the States Parties concerned about the reasons for the delay.

Briefings

13. The inspection team shall have the right to be briefed by representatives of the inspected State Party upon arrival and at any time during the inspection.

14. Before the commencement of the inspection the inspection team shall prepare an inspection plan to serve, inter alia, as a basis for logistic and safety arrangements. The inspection plan shall be updated as need arises.

C. CONDUCT OF INSPECTIONS

Access

15. The inspection team shall have the right of access to any and all areas which could be affected by the alleged use of chemical weapons. It shall also have the right of access to hospitals, refugee camps and other locations it deems relevant to the effective investigation of the alleged use of chemical weapons. For such access, the inspection team shall consult with the inspected State Party.

Sampling

16. The inspection team shall have the right to collect samples of types, and in quantities it considers necessary. If the inspection team deems it necessary, and if so requested by it, the inspected State Party shall assist in the collection of samples under the supervision of inspectors or inspection assistants. The inspected State Party shall also permit and cooperate in the collection of appropriate control samples from areas neighbouring the site of the alleged use and from other areas as requested by the inspection team.

17. Samples of importance in the investigation of alleged use include toxic chemicals, munitions and devices, remnants of munitions and devices, environmental samples (air, soil, vegetation, water, snow, etc.) and biomedical samples from human or animal sources (blood, urine, excreta, tissue etc.).

18. If duplicate samples cannot be taken and the analysis is performed at off-site laboratories, any remaining sample shall, if so requested, be returned to the inspected State Party after the completion of the analysis.

Extension of inspection site

19. If the inspection team during an inspection deems it necessary to extend the investigation into a neighbouring State Party, the Director-General shall notify that State Party about the need for access to its territory and request and confirm arrangements for the safe reception of the team.

Extension of inspection duration

20. If the inspection team deems that safe access to a specific area relevant to the investigation is not possible, the requesting State Party shall be informed immediately. If necessary, the period of inspection shall be extended until safe access can be provided and the inspection team will have concluded its mission.

Interviews

21. The inspection team shall have the right to interview and examine persons who may have been affected by the alleged use of chemical weapons. It shall also have the right to interview eyewitnesses of the alleged use of chemical weapons and medical personnel, and other persons who have treated or have come into contact with persons who may have been affected by the alleged use of chemical weapons. The inspection team shall have access to medical histories, if available, and be permitted to participate in autopsies, as appropriate, of persons who may have been affected by the alleged use of chemical weapons.

D. REPORTS

Procedures

22. The inspection team shall, not later than 24 hours after its arrival on the territory of the inspected State Party, send a situation report to the Director-General. It shall further throughout the investigation send progress reports as necessary.

23. The inspection team shall, not later than 72 hours after its return to its primary work location, submit a preliminary report to the Director-General. The final report shall be submitted to the Director-General not later than 30 days after its return to its primary work location. The Director-General shall promptly transmit the preliminary and final reports to the Executive Council and to all States Parties.

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24. The situation report shall indicate any urgent need for assistance and any other relevant information. The progress reports shall indicate any further need for assistance that might be identified during the course of the investigation.

25. The final report shall summarize the factual findings of the inspection, particularly with regard to the alleged use cited in the request. In addition, a report of an investigation of an alleged use shall include a description of the investigation process, tracing its various stages, with special reference to:

(a) The locations and time of sampling and on-site analyses; and

(b) Supporting evidence, such as the records of interviews, the results of medical examinations and scientific analyses, and the documents examined by the inspection team.

26. If the inspection team collects through, *inter alia*, identification of any impurities or other substances during laboratory analysis of samples taken, any information in the course of its investigation that might serve to identify the origin of any chemical weapons used, that information shall be included in the report.

E. STATES NOT PARTY TO THIS CONVENTION

27. In the case of alleged use of chemical weapons involving a State not Party to this Convention or in territory not controlled by a State Party, the Organization shall closely cooperate with the Secretary-General of the United Nations. If so requested, the Organization shall put its resources at the disposal of the Secretary-General of the United Nations.

ANNEX ON THE PROTECTION OF CONFIDENTIAL INFORMATION
("CONFIDENTIALITY ANNEX")

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A. GENERAL PRINCIPLES FOR THE HANDLING OF CONFIDENTIAL INFORMATION

1. The obligation to protect confidential information shall pertain to the verification of both civil and military activities and facilities. Pursuant to the general obligations set forth in Article VIII, the Organization shall:

(a) Require only the minimum amount of information and data necessary for the timely and efficient carrying out of its responsibilities under this Convention;

(b) Take the necessary measures to ensure that inspectors and other staff members of the Technical Secretariat meet the highest standards of efficiency, competence, and integrity;

(c) Develop agreements and regulations to implement the provisions of this Convention and shall specify as precisely as possible the information to which the Organization shall be given access by a State Party.

2. The Director-General shall have the primary responsibility for ensuring the protection of confidential information. The Director-General shall establish a stringent regime governing the handling of confidential information by the Technical Secretariat, and in doing so, shall observe the following guidelines:

(a) Information shall be considered confidential if:

(i) It is so designated by the State Party from which the information was obtained and to which the information refers; or

(ii) In the judgement of the Director-General, its unauthorized disclosure could reasonably be expected to cause damage to the State Party to which it refers or to the mechanisms for implementation of this Convention;

(b) All data and documents obtained by the Technical Secretariat shall be evaluated by the appropriate unit of the Technical Secretariat in order to establish whether they contain confidential information. Data required by States Parties to be assured of the continued compliance with this Convention by other States Parties shall be routinely provided to them. Such data shall encompass:

(i) The initial and annual reports and declarations provided by States Parties under Articles III, IV, V and VI, in accordance with the provisions set forth in the Verification Annex;

(ii) General reports on the results and effectiveness of verification activities; and

(iii) Information to be supplied to all States Parties in accordance with the provisions of this Convention;

(c) No information obtained by the Organization in connection with the implementation of this Convention shall be published or otherwise released, except, as follows:

(i) General information on the implementation of this Convention may be compiled and released publicly in accordance with the decisions of the Conference or the Executive Council;

(ii) Any information may be released with the express consent of the State Party to which the information refers;

(iii) Information classified as confidential shall be released by the Organization only through procedures which ensure that the release of information only occurs in strict conformity with the needs of this Convention. Such procedures shall be considered and approved by the Conference pursuant to Article VIII, paragraph 21 (i);

(d) The level of sensitivity of confidential data or documents shall be established, based on criteria to be applied uniformly in order to ensure their appropriate handling and protection. For this purpose, a classification system shall be introduced, which by taking account of relevant work undertaken in the preparation of this Convention shall provide for clear criteria ensuring the inclusion of information into appropriate categories of confidentiality and the justified durability of the confidential nature of information. While providing for the necessary flexibility in its implementation the classification system shall protect the rights of States Parties providing confidential information. A classification system shall be considered and approved by the Conference pursuant to Article VIII, paragraph 21 (i);

(e) Confidential information shall be stored securely at the premises of the Organization. Some data or documents may also be stored with the National Authority of a State Party. Sensitive information, including, inter alia, photographs, plans and other documents required only for the inspection of a specific facility may be kept under lock and key at this facility;

(f) To the greatest extent consistent with the effective implementation of the verification provisions of this Convention, information shall be handled and stored by the Technical Secretariat in a form that precludes direct identification of the facility to which it pertains;

(g) The amount of confidential information removed from a facility shall be kept to the minimum necessary for the timely and effective implementation of the verification provisions of this Convention; and

(h) Access to confidential information shall be regulated in accordance with its classification. The dissemination of confidential information within the Organization shall be strictly on a need-to-know basis.

3. The Director-General shall report annually to the Conference on the implementation of the regime governing the handling of confidential information by the Technical Secretariat.

4. Each State Party shall treat information which it receives from the Organization in accordance with the level of confidentiality established for that information. Upon request, a State Party shall provide details on the handling of information provided to it by the Organization.

B. EMPLOYMENT AND CONDUCT OF PERSONNEL IN THE TECHNICAL SECRETARIAT

5. Conditions of staff employment shall be such as to ensure that access to and handling of confidential information shall be in conformity with the procedures established by the Director-General in accordance with Section A.

6. Each position in the Technical Secretariat shall be governed by a formal position description that specifies the scope of access to confidential information, if any, needed in that position.

7. The Director-General, the inspectors and the other members of the staff shall not disclose even after termination of their functions to any unauthorized persons any confidential information coming to their knowledge in the performance of their official duties. They shall not communicate to any State, organization or person outside the Technical Secretariat any information to which they have access in connection with their activities in relation to any State Party.

8. In the discharge of their functions inspectors shall only request the information and data which are necessary to fulfil their mandate. They shall not make any records of information collected incidentally and not related to verification of compliance with this Convention.

9. The staff shall enter into individual secrecy agreements with the Technical Secretariat covering their period of employment and a period of five years after it is terminated.

10. In order to avoid improper disclosures, inspectors and staff members shall be appropriately advised and reminded about security considerations and of the possible penalties that they would incur in the event of improper disclosure.

11. Not less than 30 days before an employee is given clearance for access to confidential information that refers to activities on the territory or in any other place under the jurisdiction or control of a State Party, the State Party concerned shall be notified of the proposed clearance. For inspectors the notification of a proposed designation shall fulfil this requirement.

12. In evaluating the performance of inspectors and any other employees of the Technical Secretariat, specific attention shall be given to the employee's record regarding protection of confidential information.

C. MEASURES TO PROTECT SENSITIVE INSTALLATIONS AND PREVENT DISCLOSURE OF CONFIDENTIAL DATA IN THE COURSE OF ON-SITE VERIFICATION ACTIVITIES

13. States Parties may take such measures as they deem necessary to protect confidentiality, provided that they fulfil their obligations to demonstrate compliance in accordance with the relevant Articles and the Verification Annex. When receiving an inspection, the State Party may indicate to the inspection team the equipment, documentation or areas that it considers sensitive and not related to the purpose of the inspection.

14. Inspection teams shall be guided by the principle of conducting on-site inspections in the least intrusive manner possible consistent with the effective and timely accomplishment of their mission. They shall take into consideration proposals which may be made by the State Party receiving the inspection, at whatever stage of the inspection, to ensure that sensitive equipment or information, not related to chemical weapons, is protected.

15. Inspection teams shall strictly abide by the provisions set forth in the relevant Articles and Annexes governing the conduct of inspections. They shall fully respect the procedures designed to protect sensitive installations and to prevent the disclosure of confidential data.

16. In the elaboration of arrangements and facility agreements, due regard shall be paid to the requirement of protecting confidential information. Agreements on inspection procedures for individual facilities shall also include specific and detailed arrangements with regard to the determination of those areas of the facility to which inspectors are granted access, the storage of confidential information on-site, the scope of the inspection effort in agreed areas, the taking of samples and their analysis, the access to records and the use of instruments and continuous monitoring equipment.

17. The report to be prepared after each inspection shall only contain facts relevant to compliance with this Convention. The report shall be handled in accordance with the regulations established by the Organization governing the handling of confidential information. If necessary, the information contained in the report shall be processed into less sensitive forms before it is transmitted outside the Technical Secretariat and the inspected State Party.

D. PROCEDURES IN CASE OF BREACHES OR ALLEGED BREACHES OF CONFIDENTIALITY

18. The Director-General shall establish necessary procedures to be followed in case of breaches or alleged breaches of confidentiality, taking into account recommendations to be considered and approved by the Conference pursuant to Article VIII, paragraph 21 (i).

19. The Director-General shall oversee the implementation of individual secrecy agreements. The Director-General shall promptly initiate an investigation if, in his judgement, there is sufficient indication that obligations concerning the protection of confidential information have been violated. The Director-General shall also promptly initiate an investigation if an allegation concerning a breach of confidentiality is made by a State Party.

20. The Director-General shall impose appropriate punitive and disciplinary measures on staff members who have violated their obligations to protect confidential information. In cases of serious breaches, the immunity from jurisdiction may be waived by the Director-General.

21. States Parties shall, to the extent possible, cooperate and support the Director-General in investigating any breach or alleged breach of confidentiality and in taking appropriate action in case a breach has been established.

22. The Organization shall not be held liable for any breach of confidentiality committed by members of the Technical Secretariat.

23. For breaches involving both a State Party and the Organization, a "Commission for the settlement of disputes related to confidentiality", set up as a subsidiary organ of the Conference, shall consider the case. This Commission shall be appointed by the Conference. Rules governing its composition and operating procedures shall be adopted by the Conference at its first session.

TEXT ON THE ESTABLISHMENT OF A PREPARATORY COMMISSION

TEXT ON THE ESTABLISHMENT OF A PREPARATORY COMMISSION 1/

1. There is hereby established the Preparatory Commission for the Organization on the Prohibition of Chemical Weapons (hereinafter referred to as "the Commission") for the purpose of carrying out the necessary preparations for the effective implementation of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, and for preparing for the first session of the Conference of the States Parties to that Convention.

2. The Secretary-General of the United Nations shall convene the Commission for its first session at ... not later than 30 days after the Convention has been signed by 50 States.

3. The Seat of the Commission shall be The Hague, Kingdom of the Netherlands.

4. The Commission shall be composed of all States which sign the Convention. Each signatory State shall have one representative in the Commission, who may be accompanied by alternates and advisers.

5. The expenses of the Commission, including those of the provisional Technical Secretariat, shall be met by the States signatories to the Convention, participating in the Commission, in accordance with the United Nations scale of assessment, adjusted to take into account differences between the United Nations membership and the participation of States signatories in the Commission and timing of signature. The Commission and the provisional Technical Secretariat may also benefit from voluntary contributions.

6. All decisions of the Commission should be taken by consensus. If, notwithstanding the efforts of representatives to achieve consensus, an issue comes up for voting, the Chairman of the Commission shall defer the vote for 24 hours and during this period of deferment shall make every effort to facilitate achievement of consensus, and shall report to the Commission before the end of the period. If consensus is not possible at the end of 24 hours, the Commission shall take decisions on questions of procedure by a simple majority of the members present and voting. Decisions on matters of substance shall be taken by two-thirds majority of the members present and voting. When the issue arises as to whether the question is one of substance or not, that question shall be treated as a matter of substance unless otherwise decided by the Commission by the majority required for decisions on matters of substance.

1/ The provisions on the Commission shall be contained in a resolution annexed to the Final Act adopting the Convention at a Signatory Conference.

7. The Commission shall have such legal capacity as necessary for the exercise of its functions and the fulfilment of its purposes.

8. The Commission shall:

(a) Elect its Chairman and other officers, adopt its rules of procedure, meet as often as necessary and establish such committees as it deems useful;

(b) Appoint its Executive Secretary;

(c) Establish a provisional Technical Secretariat to assist the Commission in its activity and to exercise such functions as the Commission may determine, and appoint the necessary staff in charge of preparatory work concerning the main activities to be carried out by the Technical Secretariat to be established by the Convention. Only nationals of signatory States shall be appointed to the provisional Technical Secretariat;

(d) Establish administrative and financial regulations in respect of its own expenditure and accounts.

9. The Commission shall make arrangements for the first session of the Conference of the States Parties, including the preparation of a draft agenda and draft rules of procedure.

10. The Commission shall undertake, inter alia, the following tasks concerning the organisation and work of the Technical Secretariat and requiring immediate attention after entry into force of the Convention:

(a) Elaboration of a detailed staffing pattern of the Technical Secretariat, including decision-making flow charts;

(b) Assessments of personnel requirements;

(c) Staff rules for recruitment and service conditions;

(d) Recruitment and training of technical personnel and support staff;

(e) Organization of office and administrative services;

(f) Preparation of administrative and financial regulations;

(g) Purchase and standardization of equipment.

11. The Commission shall undertake, inter alia, the following tasks on matters of the Organization requiring immediate attention after the entry into force of the Convention:

(a) Preparation of programme of work and budget of the first year of activities of the Organization;

(b) Preparation of detailed budgetary provisions for the Organization taking into account that the budget shall comprise two separate chapters, one relating to administrative and other costs, and one relating to verification costs;

(c) Preparation of the scale of financial contributions to the Organization;

(d) Preparation of administrative and financial regulations for the Organization providing for, inter alia:

- (i) Proper financial control and accounting by the Organization;
- (ii) Preparation and approval of periodic financial statements by the Organization;
- (iii) Independent audit of the Organization's financial statements;
- (iv) Annual presentation of the audited financial statements to a regular session of the Conference of the States Parties for formal acceptance;

(e) Development of arrangements to facilitate the election of 20 members for a term of one year for the first election of the Executive Council.

12. The Commission shall develop, inter alia, the following draft agreements, provisions and guidelines for consideration and approval by the Conference of the States Parties pursuant to Article VIII, paragraph 21 (i) of the Convention:

(a) Guidelines on detailed procedures for verification and for the conduct of inspections, in accordance with, inter alia, Part II, paragraph 42, of the Verification Annex;

(b) Lists of items to be stockpiled for emergency and humanitarian assistance in accordance with Article VIII, paragraph 39 (b);

(c) Agreements between the Organization and the States Parties in accordance with Article VIII, paragraph 50;

(d) Procedures for the provision of information by States Parties on their programmes related to protective purposes, in accordance with Article X, paragraph 4;

(e) A list of approved equipment, in accordance with Part II, paragraph 27, of the Verification Annex;

(f) Procedures for the inspection of equipment, in accordance with Part II, paragraph 29, of the Verification Annex;

(g) Procedures concerning the implementation of safety requirements for activities of inspectors and inspection assistants, in accordance with Part II, paragraph 43, of the Verification Annex;

(h) Procedures for inclusion in the inspection manual concerning the security, integrity and preservation of samples and for ensuring the protection of the confidentiality of samples transferred for analysis off-site, in accordance with Part II, paragraph 56, of the Verification Annex;

(i) Models for facility agreements in accordance with Part III, paragraph 8, of the Verification Annex;

(j) Appropriate detailed procedures to implement Part III, paragraphs 11 and 12 of the Verification Annex, in accordance with paragraph 13 of that Part;

(k) Deadlines for submission of the information specified in Part IV (A), paragraphs 30 to 32 of the Verification Annex, in accordance with paragraph 34 of that Part;

(l) Recommendations for determining the frequency of systematic on-site inspections of storage facilities, in accordance with Part IV (A), paragraph 44, of the Verification Annex;

(m) Recommendations for guidelines for transitional verification arrangements, in accordance with Part IV (A), paragraph 51, of the Verification Annex;

(n) Guidelines to determine the usability of chemical weapons produced between 1925 and 1946, in accordance with Part IV (B), paragraph 5, of the Verification Annex;

(o) Guidelines for determining the frequency of systematic on-site inspections of chemical weapons production facilities, in accordance with Part V, paragraph 54, of the Verification Annex;

(p) Criteria for toxicity, corrosiveness and, if applicable, other technical factors, in accordance with Part V, paragraph 71 (b), of the Verification Annex;

(q) Guidelines to assess the risk to the object and purpose of the Convention posed by the relevant chemicals, the characteristics of the facility and the nature of the activities carried out there, in accordance with Part VI, paragraph 23, of the Verification Annex;

(r) Models for facility agreements covering detailed inspection procedures, in accordance with Part VI, paragraph 27, of the Verification Annex;

(s) Guidelines to assess the risk to the object and purpose of the Convention posed by the quantities of chemicals produced, the characteristics of the facility and the nature of the activities carried out there, in accordance with Part VI, paragraph 30, of the Verification Annex;

(t) Guidelines for provisions regarding scheduled chemicals in low concentrations, including in mixtures, in accordance with Part VII, paragraph 5, and Part VIII, paragraph 5, of the Verification Annex;

(u) Guidelines for procedures on the release of classified information by the Organization, in accordance with paragraph 2 (c) (iii) of the Confidentiality Annex;

(v) A classification system for levels of sensitivity of confidential data and documents, taking into account relevant work undertaken in the preparation of the Convention, in accordance with paragraph 2 (d) of the Confidentiality Annex;

(w) Recommendations for procedures to be followed in case of breaches or alleged breaches of confidentiality, in accordance with paragraph 18 of the Confidentiality Annex.

13. Pursuant to Article VIII, paragraph 50, of the Convention, the Commission shall develop the Headquarters Agreement with the Host Country, based, *inter alia*, on the privileges, immunities and practical arrangements as specified in Annex 2 to this text.

14. The Commission shall:

(a) Facilitate the exchange of information between signatory States concerning legal and administrative measures for the implementation of the Convention and, if requested, give advice to signatory States on these matters;

(b) Prepare such studies, reports and records as it deems necessary.

15. The Commission shall prepare a final report on all matters within its mandate for the first session of the Conference of the States Parties and the first meeting of the Executive Council.

16. The property, functions and recommendations of the Commission shall be transferred to the Organization at the first session of the Conference of the States Parties. The Commission shall make recommendations to the Conference of the States Parties on this matter.

17. The Commission shall remain in existence until the conclusion of the first session of the Conference of the States Parties.

18. The Host Country undertakes to accord the Commission, its staff, as well as the delegates of signatory States such legal status, privileges and immunities as are necessary for the independent exercise of their functions in connection with the Commission and the fulfilment of its object and purpose, as outlined in Annex 1 to this text.

Annex 1

Privileges, immunities and practical arrangements in connection with the hosting of the Preparatory Commission

1. The Government of the Netherlands is prepared to grant to the delegates to the Preparatory Commission, who have been notified as such by the sending State, and who reside in The Hague, privileges and immunities similar to those granted by the Government of the Netherlands to diplomats of comparable rank of diplomatic missions accredited to the Netherlands.

2. The Government of the Netherlands is prepared to apply Article V of the Convention on the Privileges and Immunities of the Specialized Agencies of 21 November 1947 to non-residing delegates to the Preparatory Commission while exercising their functions and during their journeys to and from the place of meeting.

3. The Government of the Netherlands is prepared to grant to the Executive Secretary and staff members of the Preparatory Commission privileges and immunities similar to those which the Government of the Netherlands has undertaken to grant to the Director-General and staff members of the Organization for the Prohibition of Chemical Weapons, as set out under Annex 3, "Privileges and Immunities", points 1, 2 and 3, "Social Security", point 13, and "Employment", points 14 and 15.

4. It is understood that the above will be elaborated in an agreement to be concluded with the Government of the Netherlands.

5. The practical arrangements for the hosting for the Preparatory Commission shall be based on the information submitted and commitments undertaken by the Netherlands and by the City of The Hague as contained in Annex 3 on the Netherlands bid, under "Building and Equipment".

Annex 2

Privileges, immunities and practical arrangements to be laid down in the Headquarters Agreement

1. The Headquarters Agreement between the Organization and the Netherlands, where the seat of the Organization is located, shall be based on the information submitted and commitments undertaken by the Netherlands and by the City of The Hague as contained in Annex 3 on the Netherlands bid.

2. In order to ensure the effective functioning of the Organization, the privileges and immunities to be laid down in the Headquarters Agreement shall be in conformity with the regime of the Convention on the Privileges and Immunities of the Specialized Agencies of 21 November 1947 (United Nations General Assembly Resolution 179/II).

3. In order to ensure the effective functioning of the Organization, the Headquarters Agreement shall also include provisions for:

3.1 the granting to Heads of Delegations to the Organization of ambassadorial rank the title of Permanent Representative and the privileges and immunities to which Ambassadors to the Netherlands are entitled;

3.2 the establishment of a tax-free commissary for the officials of the Organization entitled to duty free privileges;

3.3 the exemption from tax on or in respect of salaries and emoluments paid by the Organization; the Host Country shall not take into account the salaries and emoluments thus exempted when assessing the amount of tax to be applied to income from other sources.

Annex 3

Information submitted and commitments undertaken by the Netherlands and by the City of The Hague

The following information is given and commitments are undertaken by the Netherlands and by the City of The Hague with respect to arrangements for the hosting of the Preparatory Commission as well as for the Headquarters Agreement. These are reflected in:

- the Annex to Paper No. 1 of 28 April 1992 of the "Friend of the Chair on the Seat of the Organization";
- the Bidbook of 18 May 1992 presented by the Netherlands;
- the statement of 2 June 1992, made by Mr. Martini, Acting Burgomaster of The Hague, to the Ad Hoc Committee on Chemical Weapons;
- the statement of 2 June 1992 made by Mr. M. van Zelm, Programme Director of the Prins Maurits Laboratory, to the Ad Hoc Committee on Chemical Weapons.

These documents are filed with the Secretariat of the Conference on Disarmament in Geneva.

Other aspects may be included in the Headquarters Agreement by mutual agreement.

Privileges and Immunities

1. Full diplomatic privileges will be granted to those staff members of the Organization and their dependants who qualify under the relevant provisions of the Agreement. Pursuant to Annex 1, the Netherlands is prepared to extend diplomatic privileges to personnel with ranks comparable to P-5 and above in conformity with the regime of the Convention on the Privileges and Immunities of the Specialized Agencies of 21 November 1947 (United Nations General Assembly Resolution 179/II).

2. Other staff members will enjoy:

(a) immunity from legal proceedings of any kind with respect to words spoken or written and all acts performed by them in their official capacity;

(b) in any event, immunity shall not extend to a civil action by a third party for damage arising from an accident caused by a motor vehicle belonging to, driven by or operated on behalf of a staff member or in respect of a traffic offence involving such a vehicle;

(c) inviolability of all their official papers and documents;

(d) immunity from inspection of official baggage;

(e) exemption from Netherlands income tax on salaries and emoluments paid to them by the Organization.

Moreover, staff members who do not have the Dutch nationality will:

(f) enjoy exemption with respect to themselves and members of their families who are part of their households from all measures restricting entry and alien registration. Any visas which may be required shall be issued without charge as promptly as possible;

(g) be given the same repatriation facilities in time of international crisis as officials of diplomatic missions, together with members of their families who form part of their households;

(h) not require a work permit for their official duties with the Organization;

(i) in accordance with the regulations in force, have relief from import duties and taxes, except payments for services, in respect of their furniture and personal effects and the right to export furniture and personal effects with relief from duty on termination of their duties in the Netherlands. Personal effects may include a reasonable number of cars that have been in use in the household and are older than six months.

3. In addition, persons who have lived outside the Netherlands for at least 12 months before taking up a position with the Organization will be allowed to import one motor vehicle tax-free. The vehicle should be imported within 12 months after they take up their position and can be sold tax-free after 12 months.

4. Pursuant to Annex 2, the Netherlands is furthermore prepared to grant to the Heads of Delegation with ambassadorial rank, accredited to the Organization for the Prohibition of Chemical Weapons, the title of Permanent Representatives and the privileges and immunities to which Ambassadors to the Netherlands are entitled.

Building and Equipment

5. An office building of 3,300 square metres will be supplied free of charge during the preparatory phase (maximum of five years). The building is located at the centre of The Hague near the Peace Palace and several embassies. The Netherlands Congress Centre is 1 km away. The modern office building was built in 1986 and consists of 3,300 square metres of office space divided over five floors. Office space can be made available immediately as soon as the Organization begins working in The Hague. The building offers sufficient flexibility to allow the Organization to grow in stages up to a maximum of 200 people. The Hague and the Netherlands will pay for the rent of the office

space, parking places for the Organization, maintenance costs of the building and the installations, energy costs (heating, cooling, electricity, water) and turnkey costs (carpeting, partitioning) during the preparatory phase.

6. Before the full implementation phase, office space with a maximum of 18,000 square metres is foreseen to be made available for the Organization in a new purpose-built office building, to be known as the "Peace Tower". Construction can be started as soon as the Organization can specify the required volume and further details. The building is expected to be completed two and a half years later. The Tower will be situated in the city centre business district next to Central Station.

For a period of 3 years during the full implementation phase, The Hague and the Netherlands will pay for the rent of the office space, 110 parking places for the Organization inside the building, maintenance costs of the building and the installations, energy costs (heating, cooling, electricity, water) and turnkey costs (carpeting, partitioning).

The building is flexible enough to allow space to be made available to the Organization in proportion to the number of staff, up to a maximum of 18,000 square metres. After the period in which the Netherlands Government will pay for the office space as described above, office space can be leased by the Organization at a guaranteed price of US$ 250 per square metre (indexed on the basis of the 1992 price level, basic rent).

If required expansion needs of the Organization are known before the end of 1993, the building can be expanded to a maximum of 22,000 square metres. This expansion can be leased by the Organization at a guaranteed price of US$ 250 per square metre (indexed on the basis of 1992 price levels, basic rent).

7. When needed, a conference room for approximately 170 delegations will be made available, free of charge, during the maximum eight year period of the Netherlands bid at the nearby Peace Palace or Netherlands Congress Centre.

8. Subject to the promise that all office supplies, service contracts and other office materials for which the Organization will pay, shall be purchased at the normal going rates from a supplier designated by The Hague, the Netherlands offer during the preparatory phase (maximum of five years) includes:

- providing all necessary office furniture according to official European standards, free of charge;

- providing all the reasonably necessary office equipment, free of charge;

During the preparatory phase (maximum of five years) the Netherlands offer also includes:

- providing a fully integrated digital telephone switchboard, telephones on every desk and 10 fax machines free of charge.

9. After the preparatory phase during a period of three years office furniture (according to official European standards) and reasonably necessary office equipment will be supplied free of charge on a one-time basis, provided that all office supplies, service contracts and other office materials for which the Organization will pay, shall be purchased at the normal going rates from a supplier designated by The Hague.

Laboratory/training

10. The Prins Maurits Laboratory (PML) of the Netherlands Organization for Applied Scientific Research (TNO), a fully independent not-for-profit research organization, will grant the Organization access to its database with analytical chemical data, free of charge. This database contains spectrometric and chromatographic data of a large number of compounds relevant to the Convention.

11. PML is also prepared to provide a technical training programme for 100-150 candidate inspectors of the future Organization drawn from developing countries mainly. The training programme will be free of charge for the participants.

12. Finally PML, if needed in cooperation with other TNO institutes, could carry out a number of technical functions of the Organization, such as analyses of samples, development of analytical chemical methods, synthesis of reference compounds, calibration and development of verification equipment, advice on and development of detection and protection equipment, sampling equipment, seals and markers, etc., at a price determined by the integral costs of its activities.

Social Security

13. If the Organization establishes its own social security system with comparable coverage to Dutch schemes, the Netherlands Government will exempt the Organization, its Director and staff members/personnel from compulsory insurance under national social security schemes. The exemption rules will be laid down in the Headquarters Agreement. For persons who are not exempt, compulsory insurance schemes will apply and the Organization will be responsible for paying contributions.

Employment

14. Non-Dutch employees of international organizations in the Netherlands who do not carry diplomatic status, will be - as a matter of routine - granted work and residence permits for the duration of their employment in the Netherlands.

15. Family members of persons working at the Organization who have the nationality of one of the member States of the European Community may take up employment in the Netherlands. Members of the family who do not have the nationality of one of the member States of the European Community may take up employment subject to the requirements of the labour market.

General conditions relating to the Netherlands bid

16. The Dutch bid applies if the Organization is to remain in The Hague throughout its existence.

17. Property, furniture, equipment and other items that are made available will remain the property of the supplier and/or the Netherlands.

MATERIAL TO BE TRANSMITTED TO THE PREPARATORY COMMISSION

I. Material on the preparation period (CD/1116, pages 225 to 233)

II. Common understandings (CD/CW/WP.400, page 152).

III. Classification system of confidential information (CD/1116, pages 221 to 222).

IV. Models for agreements (CD/1116, pages 200 to 216).

V. Possible factors identified to determine the number, intensity, duration, timing and mode of inspection of facilities handling Schedule 2 chemicals (CD/1116, page 186).

VI. Captive use (CD/CW/WP.400, page 153).

VII. Factors which might be taken into account for lower thresholds of certain Schedule 2 chemicals (CD/CW/WP.400, page 154).

VIII. Toxicity determinations (CD/1116, pages 68 to 72).

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